



1 G.S. Chapter 131E, Article 6, Part D, but the performance of  
2 incidental, limited ambulatory surgical procedures which do not  
3 constitute an ambulatory surgical program as defined in subdivision  
4 (1b) and which are performed in a physician's or dentist's office does  
5 not make that office an ambulatory surgical facility.

6 (1c) "Ambulatory surgical program" means a formal program for providing  
7 on a same-day basis those surgical procedures which require local,  
8 regional or general anesthesia and a period of post-operative  
9 observation to patients whose admission for more than 24 hours is  
10 determined, prior to surgery, to be medically unnecessary.

11 (2) "Bed capacity" means space used exclusively for inpatient care,  
12 including space designed or remodeled for licensed inpatient beds even  
13 though temporarily not used for such purposes. The number of beds to  
14 be counted in any patient room shall be the maximum number for  
15 which adequate square footage is provided as established by rules of  
16 the Department except that single beds in single rooms are counted  
17 even if the room contains inadequate square footage. The term "bed  
18 capacity" also refers to the number of dialysis stations in kidney  
19 disease treatment centers, including freestanding dialysis units.

20 (2a) "Bone marrow transplantation services" means the process of infusing  
21 bone marrow into persons with diseases to stimulate the production of  
22 blood cells.

23 (2b) "Burn intensive care services" means services provided in a unit  
24 designed to care for patients who have been severely burned.

25 (2c) "Campus" means the adjacent grounds and buildings, or grounds and  
26 buildings not separated by more than a public right-of-way, of a health  
27 service facility and related health care entities.

28 (2d) "Capital expenditure" means an expenditure for a project, including  
29 but not limited to the cost of construction, engineering, and equipment  
30 which under generally accepted accounting principles is not properly  
31 chargeable as an expense of operation and maintenance. Capital  
32 expenditure includes, in addition, the fair market value of an  
33 acquisition made by donation, lease, or comparable arrangement by  
34 which a person obtains equipment, the expenditure for which would  
35 have been considered a capital expenditure under this Article if the  
36 person had acquired it by purchase.

37 ~~(2e) "Cardiac angioplasty equipment" means the cardiac catheterization  
38 equipment used in surgery for the restoration, repair, or reconstruction  
39 of coronary blood vessels.~~

40 (2f) "Cardiac catheterization equipment" means the equipment ~~required to  
41 perform diagnostic procedures or therapeutic intervention in which a  
42 catheter is introduced into a vein or artery and threaded through the  
43 circulatory system to the heart.~~used to provide cardiac catheterization  
44 services.

- 1           (2g) "Cardiac catheterization services" means those procedures, excluding  
2           pulmonary angiography procedures, in which a catheter is introduced  
3           into a vein or artery and threaded through the circulatory system into  
4           the heart specifically to diagnose abnormalities in the motion,  
5           contraction, and blood flow of the moving heart or to perform surgical  
6           therapeutic interventions to restore, repair, or reconstruct the coronary  
7           blood vessels of the heart.
- 8           (3) "Certificate of need" means a written order which affords the person so  
9           designated as the legal proponent of the proposed project the  
10          opportunity to proceed with the development of such project.
- 11          (4) Repealed by Session Laws 1993, c. 7, s. 2.
- 12          (5) "Change in bed capacity" means (i) any relocation of health service  
13          facility beds, or dialysis stations from one licensed facility or campus  
14          to another, or (ii) any redistribution of health service facility bed  
15          capacity among the categories of health service facility bed as defined  
16          in G.S. 131E-176(9c), or (iii) any increase in the number of health  
17          service facility beds, or dialysis stations in kidney disease treatment  
18          centers, including freestanding dialysis units.
- 19          (5a) "Chemical dependency treatment facility" means a public or private  
20          facility, or unit in a facility, which is engaged in providing 24-hour a  
21          day treatment for chemical dependency or substance abuse. This  
22          treatment may include detoxification, administration of a therapeutic  
23          regimen for the treatment of chemically dependent or substance  
24          abusing persons and related services. The facility or unit may be:
- 25           a.       A unit within a general hospital or an attached or freestanding  
26           unit of a general hospital licensed under Article 5, Chapter  
27           131E, of the General Statutes,
- 28           b.       A unit within a psychiatric hospital or an attached or  
29           freestanding unit of a psychiatric hospital licensed under Article  
30           1A of General Statutes Chapter 122 or Article 2 of General  
31           Statutes Chapter 122C,
- 32           c.       A freestanding facility specializing in treatment of persons who  
33           are substance abusers or chemically dependent licensed under  
34           Article 1A of General Statutes Chapter 122 or Article 2 of  
35           General Statutes Chapter 122C; and may be identified as  
36           "chemical dependency, substance abuse, alcoholism, or drug  
37           abuse treatment units," "residential chemical dependency,  
38           substance abuse, alcoholism or drug abuse facilities," or by  
39           other names if the purpose is to provide treatment of chemically  
40           dependent or substance abusing persons, but shall not include  
41           social setting detoxification facilities, medical detoxification  
42           facilities, halfway houses or recovery farms.
- 43          (5b) "Chemical dependency treatment beds" means beds that are licensed  
44          for the inpatient treatment of chemical dependency. Residential

1 treatment beds for the treatment of chemical dependency or substance  
2 abuse are chemical dependency treatment beds. Chemical dependency  
3 treatment beds shall not include beds licensed for detoxification.

4 (6) "Department" means the North Carolina Department of Health and  
5 Human Services.

6 (7) To "develop" when used in connection with health services, means to  
7 undertake those activities which will result in the offering of  
8 institutional health service or the incurring of a financial obligation in  
9 relation to the offering of such a service.

10 (7a) "Diagnostic center" means a freestanding facility, program, or  
11 provider, including but not limited to, physicians' offices, clinical  
12 laboratories, radiology centers, and mobile diagnostic programs, in  
13 which the total cost of all the medical diagnostic equipment utilized by  
14 the facility which cost ten thousand dollars (\$10,000) or more exceeds  
15 five hundred thousand dollars (\$500,000). In determining whether the  
16 medical diagnostic equipment in a diagnostic center costs more than  
17 five hundred thousand dollars (\$500,000), the costs of the equipment,  
18 studies, surveys, designs, plans, working drawings, specifications,  
19 construction, installation, and other activities essential to acquiring and  
20 making operational the equipment shall be included. The capital  
21 expenditure for the equipment shall be deemed to be the fair market  
22 value of the equipment or the cost of the equipment, whichever is  
23 greater.

24 (7b) "Expedited review" means the status given to an application's review  
25 process when the applicant petitions for the review and the Department  
26 approves the request based on findings that all of the following are  
27 met:

28 a. The review is not competitive.

29 b. The proposed capital expenditure is less than five million  
30 dollars (\$5,000,000).

31 c. A request for a public hearing is not received within the time  
32 frame defined in G.S. 131E-185.

33 d. The agency has not determined that a public hearing is in the  
34 public interest.

35 (7c) "Gamma knife" means equipment which emits photon beams from a  
36 stationary radioactive cobalt source to treat lesions deep within the  
37 brain and is one type of stereotactic radiosurgery.

38 (8), (9) Repealed by Session Laws 1987, c. 511, s. 1.

39 (9a) "Health service" means an organized, interrelated medical, diagnostic,  
40 therapeutic, and/or rehabilitative activity that is integral to the  
41 prevention of disease or the clinical management of a sick, injured, or  
42 disabled person. "Health service" does not include administrative and  
43 other activities that are not integral to clinical management.

- 1 (9b) "Health service facility" means a hospital; long-term care hospital;  
2 psychiatric facility; rehabilitation facility; nursing home facility; adult  
3 care home; kidney disease treatment center, including freestanding  
4 hemodialysis units; intermediate care facility for the mentally retarded;  
5 home health agency office; chemical dependency treatment facility;  
6 diagnostic center; ~~oncology treatment center~~; ~~hospice~~, hospice office,  
7 hospice inpatient facility, hospice residential care facility; and  
8 ambulatory surgical facility.
- 9 (9c) "Health service facility bed" means a bed licensed for use in a health  
10 service facility in the categories of (i) acute care beds; (ii) psychiatric  
11 beds; (iii) rehabilitation beds; (iv) nursing home beds; (v) intermediate  
12 care beds for the mentally retarded; (vi) chemical dependency  
13 treatment beds; (vii) hospice inpatient facility beds; (viii) hospice  
14 residential care facility beds; ~~and~~ (ix) adult care home beds; and  
15 (x) long-term care hospital beds.
- 16 (10) "Health maintenance organization (HMO)" means a public or private  
17 organization which has received its certificate of authority under  
18 Article 67 of Chapter 58 of the General Statutes and which either is a  
19 qualified health maintenance organization under Section 1310(d) of  
20 the Public Health Service Act or:
- 21 a. Provides or otherwise makes available to enrolled participants  
22 health care services, including at least the following basic  
23 health care services: usual physician services, hospitalization,  
24 laboratory, X ray, emergency and preventive services, and  
25 out-of-area coverage;
- 26 b. Is compensated, except for copayments, for the provision of the  
27 basic health care services listed above to enrolled participants  
28 by a payment which is paid on a periodic basis without regard  
29 to the date the health care services are provided and which is  
30 fixed without regard to the frequency, extent, or kind of health  
31 service actually provided; and
- 32 c. Provides physicians' services primarily (i) directly through  
33 physicians who are either employees or partners of such  
34 organizations, or (ii) through arrangements with individual  
35 physicians or one or more groups of physicians organized on a  
36 group practice or individual practice basis.
- 37 (10a) "Heart-lung bypass machine" means the equipment used to perform  
38 extra-corporeal circulation and oxygenation during surgical  
39 procedures.
- 40 (11) Repealed by Session Laws 1991, c. 692, s. 1.
- 41 (12) "Home health agency" means a private organization or public agency,  
42 whether owned or operated by one or more persons or legal entities,  
43 which furnishes or offers to furnish home health services.

1 "Home health services" means items and services furnished to an  
2 individual by a home health agency, or by others under arrangements  
3 with such others made by the agency, on a visiting basis, and except  
4 for paragraph e. of this subdivision, in a place of temporary or  
5 permanent residence used as the individual's home as follows:

- 6 a. Part-time or intermittent nursing care provided by or under the  
7 supervision of a registered nurse;  
8 b. Physical, occupational or speech therapy;  
9 c. Medical social services, home health aid services, and other  
10 therapeutic services;  
11 d. Medical supplies, other than drugs and biologicals and the use  
12 of medical appliances;  
13 e. Any of the foregoing items and services which are provided on  
14 an outpatient basis under arrangements made by the home  
15 health agency at a hospital or nursing home facility or  
16 rehabilitation center and the furnishing of which involves the  
17 use of equipment of such a nature that the items and services  
18 cannot readily be made available to the individual in his home,  
19 or which are furnished at such facility while he is there to  
20 receive any such item or service, but not including  
21 transportation of the individual in connection with any such  
22 item or service.

23 (13) "Hospital" means a public or private institution which is primarily  
24 engaged in providing to inpatients, by or under supervision of  
25 physicians, diagnostic services and therapeutic services for medical  
26 diagnosis, treatment, and care of injured, disabled, or sick persons, or  
27 rehabilitation services for the rehabilitation of injured, disabled, or sick  
28 persons. The term includes all facilities licensed pursuant to  
29 G.S. 131E-77 of the General Statutes, ~~Statutes~~, except long-term care  
30 hospitals.

31 (13a) "Hospice" means any coordinated program of home care with  
32 provision for inpatient care for terminally ill patients and their  
33 families. This care is provided by a medically directed  
34 interdisciplinary team, directly or through an agreement under the  
35 direction of an identifiable hospice administration. A hospice program  
36 of care provides palliative and supportive medical and other health  
37 services to meet the physical, psychological, social, spiritual and  
38 special needs of patients and their families, which are experienced  
39 during the final stages of terminal illness and during dying and  
40 bereavement.

41 (13b) "Hospice inpatient facility" means a freestanding licensed hospice  
42 facility or a designated inpatient unit in an existing health service  
43 facility which provides palliative and supportive medical and other  
44 health services to meet the physical, psychological, social, spiritual,

1 and special needs of terminally ill patients and their families in an  
2 inpatient setting. For purposes of this Article only, a hospital which  
3 has a contractual agreement with a licensed hospice to provide  
4 inpatient services to a hospice patient as defined in G.S. 131E-201(4)  
5 and provides those services in a licensed acute care bed is not a  
6 hospice inpatient facility and is not subject to the requirements in  
7 G.S. 131E-176(5)(ii) for hospice inpatient beds.

8 (13c) "Hospice residential care facility" means a freestanding licensed  
9 hospice facility which provides palliative and supportive medical and  
10 other health services to meet the physical, psychological, social,  
11 spiritual, and special needs of terminally ill patients and their families  
12 in a group residential setting.

13 (14) Repealed by Session Laws 1987, c. 511, s. 1.

14 (14a) "Intermediate care facility for the mentally retarded" means facilities  
15 licensed pursuant to Article 2 of Chapter 122C of the General Statutes  
16 for the purpose of providing health and habilitative services based on  
17 the developmental model and principles of normalization for persons  
18 with mental retardation, autism, cerebral palsy, epilepsy or related  
19 conditions.

20 (14a1) "Kidney disease treatment center" means a facility that is certified as  
21 an end-stage renal disease facility by the Centers for Medicare and  
22 Medicaid Services, Department of Health and Human Services,  
23 pursuant to 42 C.F.R. § 405.

24 (14b) Repealed by Session Laws 1991, c. 692, s. 1.

25 (14b1) "Linear accelerator" means a machine used to produce ionizing  
26 radiation in excess of one million electron volts in the form of a beam  
27 of electrons or photons to treat cancer patients.

28 (14c) "Lithotripter" means extra-corporeal shock wave technology used to  
29 treat persons with kidney stones and gallstones.

30 (14c1) "Long-term care hospital" means a hospital that has been classified  
31 and designated as a long-term care hospital by the Centers for  
32 Medicare and Medicaid Services, Department of Health and Human  
33 Services, pursuant to 42 C.F.R. § 412.

34 (14d) Repealed by Session Laws 2001-234, s. 2, effective January 1, 2002.

35 (14e) "Magnetic resonance imaging scanner" means medical imaging  
36 equipment that uses nuclear magnetic resonance.

37 (14f) "Major medical equipment" means a single unit or single system of  
38 components with related functions which is used to provide medical  
39 and other health services and which costs more than seven hundred  
40 fifty thousand dollars (\$750,000). In determining whether the major  
41 medical equipment costs more than seven hundred fifty thousand  
42 dollars (\$750,000), the costs of the equipment, studies, surveys,  
43 designs, plans, working drawings, specifications, construction,  
44 installation, and other activities essential to acquiring and making

1 operational the major medical equipment shall be included. The capital  
2 expenditure for the equipment shall be deemed to be the fair market  
3 value of the equipment or the cost of the equipment, whichever is  
4 greater. Major medical equipment does not include replacement  
5 equipment as defined in this section.

6 (15) Repealed by Session Laws 1987, c. 511, s. 1.

7 (15a) "Multispecialty ambulatory surgical program" means a formal program  
8 for providing on a same-day basis surgical procedures for at least three  
9 of the following specialty areas: gynecology, otolaryngology, plastic  
10 surgery, general surgery, ophthalmology, orthopedic, or oral surgery.

11 (15b) "Neonatal intensive care services" means those services provided by a  
12 health service facility to high-risk newborn infants who require  
13 constant nursing care, including but not limited to continuous  
14 cardiopulmonary and other supportive care.

15 (16) "New institutional health services" means any of the following:

16 a. The construction, development, or other establishment of a new  
17 health service facility.

18 b. The obligation by any person of a capital expenditure exceeding  
19 two million dollars (\$2,000,000) to develop or expand a health  
20 service or a health service facility, or which relates to the  
21 provision of a health service. The cost of any studies, surveys,  
22 designs, plans, working drawings, specifications, and other  
23 activities, including staff effort and consulting and other  
24 services, essential to the acquisition, improvement, expansion,  
25 or replacement of any plant or equipment with respect to which  
26 an expenditure is made shall be included in determining if the  
27 expenditure exceeds two million dollars (\$2,000,000).

28 c. Any change in bed capacity as defined in G.S. 131E-176(5).

29 d. The offering of dialysis services or home health services by or  
30 on behalf of a health service facility if those services were not  
31 offered within the previous 12 months by or on behalf of the  
32 facility.

33 e. A change in a project that was subject to certificate of need  
34 review and for which a certificate of need was issued, if the  
35 change is proposed during the development of the project or  
36 within one year after the project was completed. For purposes  
37 of this subdivision, a change in a project is a change of more  
38 than fifteen percent (15%) of the approved capital expenditure  
39 amount or the addition of a health service that is to be located in  
40 the facility, or portion thereof, that was constructed or  
41 developed in the project.

42 f. The development or offering of a health service as listed in this  
43 subdivision by or on behalf of any person:

44 1. Bone marrow transplantation services.



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2. Burn intensive care services.
  - 2a. Cardiac catheterization services.
  3. Neonatal intensive care services.
  4. Open-heart surgery services.
  5. Solid organ transplantation services.
  - f1. The acquisition by purchase, donation, lease, transfer, or comparable arrangement of any of the following equipment by or on behalf of any person:
    1. Air ambulance.
    - ~~2. Cardiac angioplasty equipment.~~
    3. Cardiac catheterization equipment.
    4. Gamma knife.
    5. Heart-lung bypass machine.
    - 5a. Linear accelerator.
    6. Lithotripter.
    7. Magnetic resonance imaging scanner.
    8. Positron emission tomography scanner.
    9. Simulator.
  - g. to k. Repealed by Session Laws 1987, c. 511, s. 1.
  - l. The purchase, lease, or acquisition of any health service facility, or portion thereof, or a controlling interest in the health service facility or portion thereof, if the health service facility was developed under a certificate of need issued pursuant to G.S. 131E-180.
  - m. Any conversion of nonhealth service facility beds to health service facility beds.
  - n. The construction, development or other establishment of a hospice, hospice inpatient facility, or hospice residential care facility;
  - o. The opening of an additional office by an existing home health agency or hospice within its service area as defined by rules adopted by the Department; or the opening of any office by an existing home health agency or hospice outside its service area as defined by rules adopted by the Department.
  - p. The acquisition by purchase, donation, lease, transfer, or comparable arrangement by any person of major medical equipment.
  - q. The relocation of a health service facility from one service area to another.
  - r. The conversion of a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or the addition of a specialty to a specialty ambulatory surgical program.
  - s. The furnishing of mobile medical equipment to any person to provide health services in North Carolina, which was not in use

1 in North Carolina prior to the adoption of this provision, if such  
2 equipment would otherwise be subject to review in accordance  
3 with G.S. 131E-176(16)(f1.) or G.S. 131E-176(16)(p) if it had  
4 been acquired in North Carolina.

5 t. Repealed by Session Laws 2001-242, s. 4, effective June 23,  
6 2001.

7 u. **(See note)** The construction, development, establishment,  
8 increase in the number, or relocation of an operating room or  
9 operating rooms, other than the relocation of an operating room  
10 or operating rooms within the same building or on the same  
11 grounds or to grounds not separated by more than a public  
12 right-of-way adjacent to the grounds where the operating room  
13 is or operating rooms are currently located.

14 (17) "North Carolina State Health Coordinating Council" means the  
15 Council that prepares, with the Department of Health and Human  
16 Services, the State Medical Facilities Plan.

17 (17a) "Nursing care" means:

- 18 a. Skilled nursing care and related services for residents who  
19 require medical or nursing care;  
20 b. Rehabilitation services for the rehabilitation of injured,  
21 disabled, or sick persons; or  
22 c. Health-related care and services provided on a regular basis to  
23 individuals who because of their mental or physical condition  
24 require care and services above the level of room and board,  
25 which can be made available to them only through institutional  
26 facilities.

27 These are services which are not primarily for the care and treatment  
28 of mental diseases.

29 (17b) "Nursing home facility" means a health service facility whose bed  
30 complement of health service facility beds is composed principally of  
31 nursing home facility beds.

32 (18) To "offer," when used in connection with health services, means that  
33 the person holds himself out as capable of providing, or as having the  
34 means for the provision of, specified health services.

35 ~~(18a) "Oncology treatment center" means a facility, program, or provider,  
36 other than an existing health service facility that provides services for  
37 diagnosis, evaluation, or treatment of cancer and its aftereffects or  
38 secondary results and for which the total cost of all the medical  
39 equipment utilized by the center, exceeds two hundred fifty thousand  
40 dollars (\$250,000). In determining whether costs are more than two  
41 hundred fifty thousand dollars (\$250,000), the costs of equipment,  
42 studies, surveys, designs, plans, working drawings, specifications,  
43 construction, installation, and other activities essential to acquiring and  
44 making operational the facility, program, or provider shall be included.~~

1           ~~The capital expenditure for the equipment shall be deemed to be the~~  
2           ~~fair market value of the equipment or the cost of the equipment,~~  
3           ~~whichever is greater.~~

4           (18b) "Open-heart surgery services" means the provision of surgical  
5           procedures that utilize a heart-lung bypass machine during surgery to  
6           correct cardiac and coronary artery disease or defects.

7           (19) "Person" means an individual, a trust or estate, a partnership, a  
8           corporation, including associations, joint stock companies, and  
9           insurance companies; the State, or a political subdivision or agency or  
10          instrumentality of the State.

11          (19a) "Positron emission tomography scanner" means equipment that utilizes  
12          a computerized radiographic technique that employs radioactive  
13          substances to examine the metabolic activity of various body  
14          structures.

15          (20) "Project" or "capital expenditure project" means a proposal to  
16          undertake a capital expenditure that results in the offering of a new  
17          institutional health service as defined by this Article. A project, or  
18          capital expenditure project, or proposed project may refer to the  
19          project from its earliest planning stages up through the point at which  
20          the specified new institutional health service may be offered. In the  
21          case of facility construction, the point at which the new institutional  
22          health service may be offered must take place after the facility is  
23          capable of being fully licensed and operated for its intended use, and at  
24          that time it shall be considered a health service facility.

25          (21) "Psychiatric facility" means a public or private facility licensed  
26          pursuant to Article 2 of Chapter 122C of the General Statutes and  
27          which is primarily engaged in providing to inpatients, by or under the  
28          supervision of a physician, psychiatric services for the diagnosis and  
29          treatment of mentally ill persons.

30          (22) "Rehabilitation facility" means a public or private inpatient facility  
31          which is operated for the primary purpose of assisting in the  
32          rehabilitation of disabled persons through an integrated program of  
33          medical and other services which are provided under competent,  
34          professional supervision.

35          (22a) "Replacement equipment" means equipment that costs less than two  
36          million dollars (\$2,000,000) and is purchased for the sole purpose of  
37          replacing comparable medical equipment currently in use which will  
38          be sold or otherwise disposed of when replaced. In determining  
39          whether the replacement equipment costs less than two million dollars  
40          (\$2,000,000), the costs of equipment, studies, surveys, designs, plans,  
41          working drawings, specifications, construction, installation, and other  
42          activities essential to acquiring and making operational the  
43          replacement equipment shall be included. The capital expenditure for

1 the equipment shall be deemed to be the fair market value of the  
2 equipment or the cost of the equipment, whichever is greater.

3 (23) Repealed by Session Laws 1991, c. 692, s. 1.

4 (24) Repealed by Session Laws 1993, c. 7, s. 2.

5 (24a) "Service area" means the area of the State, as defined in the State  
6 Medical Facilities Plan or in rules adopted by the Department, which  
7 receives services from a health service facility.

8 (24a1) "Simulator" means a machine that produces high quality diagnostic  
9 radiographs and precisely reproduces the geometric relationships of  
10 megavoltage radiation therapy equipment to the patient.

11 (24b) "Solid organ transplantation services" means the provision of surgical  
12 procedures and the interrelated medical services that accompany the  
13 surgery to remove an organ from a patient and surgically implant an  
14 organ from a donor.

15 (24c) "Specialty ambulatory surgical program" means a formal program for  
16 providing on a same-day basis surgical procedures for only the  
17 specialty areas identified on the ambulatory surgical facility's 1993  
18 Application for Licensure as an Ambulatory Surgical Center and  
19 authorized by its certificate of need.

20 (25) "State Medical Facilities Plan" means the plan prepared by the  
21 Department of Health and Human Services and the North Carolina  
22 State Health Coordinating Council, and approved by the Governor. In  
23 preparing the Plan, the Department and the State Health Coordinating  
24 Council shall maintain a mailing list of persons who have requested  
25 notice of public hearings regarding the Plan. Not less than 15 days  
26 prior to a scheduled public hearing, the Department shall notify  
27 persons on its mailing list of the date, time, and location of the hearing.  
28 The Department shall hold at least one public hearing prior to the  
29 adoption of the proposed Plan and at least six public hearings after the  
30 adoption of the proposed Plan by the State Health Coordinating  
31 Council. The Council shall accept oral and written comments from the  
32 public concerning the Plan.

33 (26) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1002, s. 9.

34 (27) Repealed by Session Laws 1987, c. 511, s. 1."

35 **SECTION 2.** G.S. 131E-180 is repealed.

36 **SECTION 3.** G.S. 131E-182(a) reads as rewritten:

37 "(a) The Department in its rules shall establish schedules for submission and  
38 review of completed applications. The schedules shall provide that applications for  
39 similar proposals in the same ~~health~~-service area will be reviewed together."

40 **SECTION 4.** G.S. 131E-185(a1) reads as rewritten:

41 "(a1) Except as provided in subsection (c) of this section, there shall be a time limit  
42 of 90 days for review of the applications, beginning on the day established by rule as the  
43 day on which applications for the particular service in the service area shall begin  
44 review.

- 1           (1) Any person may file written comments and exhibits concerning a  
2 proposal under review with the Department, not later than 30 days  
3 after the date on which the application begins review. These written  
4 comments may include:
- 5           a. Facts relating to the service area proposed in the application;
  - 6           b. Facts relating to the representations made by the applicant in its  
7 application, and its ability to perform or fulfill the  
8 representations made;
  - 9           c. Discussion and argument regarding whether, in light of the  
10 material contained in the application and other relevant factual  
11 material, the application complies with relevant review criteria,  
12 plans, and standards.
- 13           (2) No more than 20 days from the conclusion of the written comment  
14 period, the Department shall ensure that a public hearing is conducted  
15 at a place within the appropriate ~~health~~-service area if one or more of  
16 the following circumstances apply; the review to be conducted is  
17 competitive; the proponent proposes to spend five million dollars  
18 (\$5,000,000) or more; a written request for a public hearing is received  
19 before the end of the written comment period from an affected party as  
20 defined in G.S. 131E-188(c); or the agency determines that a hearing is  
21 in the public interest. At such public hearing oral arguments may be  
22 made regarding the application or applications under review; and this  
23 public hearing shall include the following:
- 24           a. An opportunity for the proponent of each application under  
25 review to respond to the written comments submitted to the  
26 Department about its application;
  - 27           b. An opportunity for any ~~affected person as defined in~~  
28 ~~G.S. 131E-188(e),~~ person, except one of the proponents, to  
29 ~~present comments regarding comment on the~~ applications under  
30 review;
  - 31           c. An opportunity for a representative of the Department, or such  
32 other person or persons who are designated by the Department  
33 to conduct the hearing, to question each proponent of  
34 applications under review with regard to the contents of the  
35 application;
- 36           The Department shall maintain a recording of any required public  
37 hearing on an application until such time as the Department's final  
38 decision is issued, or until a final agency decision is issued pursuant to  
39 a contested case hearing, whichever is later; and any person may  
40 submit a written synopsis or verbatim statement that contains the oral  
41 presentation made at the hearing.
- 42           (3) The Department may contract or make arrangements with a person or  
43 persons located within each ~~health~~-service area for the conduct of such  
44 public hearings as may be necessary. The Department shall publish, in

1 each ~~health~~-service area, notice of the contracts that it executes for the  
2 conduct of those hearings.

3 (4) Within 15 days from the beginning of the review of an application or  
4 applications proposing the same service within the same service area,  
5 the Department shall publish notice of the deadline for receipt of  
6 written comments, of the time and place scheduled for the public  
7 hearing regarding the application or applications under review, and of  
8 the name and address of the person or agency that will preside.

9 (5) The Department shall maintain all written comments submitted to it  
10 during the written comment stage and any written submissions  
11 received at the public hearing as part of the Department's file  
12 respecting each application or group of applications under review by it.  
13 The application, written comments, and public hearing comments,  
14 together with all documents that the Department used in arriving at its  
15 decision, from whatever source, and any documents that reflect or set  
16 out the Department's final analysis of the application or applications  
17 under review, shall constitute the Department's record for the  
18 application or applications under review."

19 **SECTION 5.** G.S. 131E-188(c) reads as rewritten:

20 "(c) The term "affected persons" includes: the applicant; any person residing  
21 within the geographic area served or to be served by the applicant; any person who  
22 regularly uses health service facilities within that geographic area; health service  
23 facilities and health maintenance organizations (HMOs) located in the ~~health~~-service  
24 area in which the project is proposed to be located, which provide services similar to the  
25 services of the facility under review; health service facilities and HMOs which, prior to  
26 receipt by the agency of the proposal being reviewed, have formally indicated an  
27 intention to provide similar services to residents of the service area in the future; third  
28 party payers who reimburse health service facilities for services in the ~~health~~-service  
29 area in which the project is proposed to be located; and any agency which establishes  
30 rates for health service facilities or HMOs located in the ~~health~~-service area in which the  
31 project is proposed to be located."

32 **SECTION 6.** This act is effective when it becomes law.