

Guidance to 10 NYCRR 710.1: Approval of Medical Facility Construction regulations effective August 6, 2025

This document is intended as an overview of the new **NYCRR 710.1 Approval of Medical Facility Construction** which defines the parameters for review of medical facility construction projects and not a replacement for the regulation. While it covers most general circumstances, there may be unique factors in any Certificate of Need (CON) application that will require reference to the regulation itself for final determination on the required level of review. Questions can be sent to cons@health.ny.gov.

Like the old regulation, the new regulation uses increased total project cost thresholds with other specific factors overlaid to determine appropriate review levels for Certificate of Need construction projects.

New cost thresholds are listed below:

Review Level	Cost Threshold
Nothing	Non-clinical projects with a total project cost of up to \$12 million .
Notice	Required for non-clinical projects greater than \$12 million
Limited	Hospitals: \$30 million or less All Others: \$8 million or less
Admin	Hospitals: Greater than \$30 million but not exceeding the greater of \$60 million or 10% of a facility's operating costs not to exceed \$150 million (\$1.5 billion operating costs) All Others: Greater than \$8 million but not exceeding the greater of \$20 million or 10% of a facility's operating costs not to exceed \$30 million (\$300 million operating costs)
Full	Hospitals: Greater than the greater of \$60 million or 10% of a facility's operating costs not to exceed \$150 million (\$1.5 billion operating costs) All Others: Greater than the greater of \$20 million or 10% of a facility's operating costs not to exceed \$30 million (\$300 million operating costs)
Architectural Self-Certification	Projects up to \$30 million eligible

In addition to the cost thresholds above, the following criteria would indicate a Full Review:

- An addition of beds to a facility more than 10% of the current total beds.
- Any proposal involving the addition or modification of the following services, or the initial acquisition of any equipment relating to:
 - Adult or Pediatric Cardiac Surgery
 - Kidney, Heart, Liver or Lung Transplant

- Any project otherwise eligible for Administrative Review that would exceed a facility's administrative review project cost threshold
- Any project recommended for disapproval.

The following additional criteria would indicate an Administrative Review:

- A project that otherwise would receive a Full Review but is funded primarily through State Grants would be eligible for an Administrative Review.
- The following types of projects would receive an Administrative Review regardless of whether they meet the project cost threshold for Limited Review:
 - the addition of beds totaling up to 10% of current beds or the conversion of up to 10% of current beds to a bed type of a higher level of care
 - the conversion of beds other than a conversion which would establish a higher level of care
 - the temporary addition of beds to a facility's certified capacity, for a period of time not to exceed one year, required to address high priority health care needs for which there is a demonstrated severe shortage
 - the operation or relocation of an extension clinic when such relocation is to a site outside of the current service area of the extension clinic
 - the addition of a methadone maintenance treatment program
 - an application for the relocation of long-term ventilator beds from one residential health care facility to another residential health care facility with common ownership
 - the addition of chronic renal dialysis stations by a facility approved and operating dialysis stations.

The following criteria in addition to the cost thresholds would indicate a Limited Review:

- Any proposal solely to decertify a facility's beds.
- Any proposal solely to decertify services, other than those services that are highlighted under the section requiring Full Review.
- Any proposal to add services, other than those receiving special consideration for Full or Administrative Review.
- Any proposal to convert beds from one category to another among the following:
 - medical/surgical
 - intensive care
 - coronary care
 - pediatric
 - pediatric intensive care
 - neonatal intensive care
 - neonatal intermediate care
 - neonatal continuing care
 - maternity and
 - chemical dependence - detoxification.
- Any proposal solely to relocate an extension clinic within the same service area or the area within one mile of the current location of such extension clinic.

- Any proposal to operate, change services offered, change hours of operation, or relocate a part-time clinic site.
- any proposal for the reallocation or relocation of acute care beds from one general hospital to another general hospital within an established article 28 network.
- Any proposal to operate a mobile van extension clinic.

Projects requiring a notice to the Department:

- Any proposal solely for the correction of cited deficiencies consistent with a plan of correction approved by the department.
- Any proposal for the repair or maintenance of a medical facility, including routine purchases or acquisition of minor equipment with a total cost of up to \$12,000,000.
- Any proposal for the addition or renovation of examination rooms within or adjacent to previously certified space.
- Any proposal to discontinue a part-time clinic site of a medical facility.
- One for one replacement of existing equipment, regardless of cost.
- Any proposal for a nonclinical infrastructure project with total project costs more than \$12,000,000.
- Any proposal that relates to health information technology regardless of cost.
- Any project eligible for Limited Review that does not impact the applicant's operating certificate and for which the applicant will Architecturally Self-Certify.

Proposals requiring neither an application nor notice

Proposals for nonclinical infrastructure projects such as the replacement of heating, ventilating and air conditioning, fire alarm and call bell systems or components thereof, roofs, elevators, parking lots and garages, dietary, and solid waste and/or sewage disposal and upgrades of the exterior building envelope, where total project costs do not exceed \$12,000,000 do not require prior approval or written notice to the Department.

As previously required, separate Certificate of Need (CON) applications that are programmatically related are to be submitted as a single application.