CON Statute NRS 439A.100

- In a county whose population is less than 100,000, no person may undertake any expenditure for new construction on behalf of a health facility, in excess of $2,000,000, without first applying for and obtaining the written approval of the Director of the Department of Health and Human Services.
- The Health Division shall not issue a license unless the Director has issued an approval.
NRS 439A.015

- Defines a **health facility** as a facility in or through which health services are provided.

  - Examples: includes but not limited to hospitals, ambulatory surgery centers, and skilled nursing facilities
  - Exclusions: office of a practitioner used solely to provide routine services to patients
Pursuant to NRS 439A.100, in reviewing the application the Director shall:

- Comparatively assess applications for similar projects in the same geographic area.

- Base his decision on established criteria, including:
  - The appropriateness of the project in the area to be served;
  - The financial feasibility of the project;
  - The effect of the project on the cost of health care;
  - The extent the project is consistent with NRS 439A.020 and priorities set in NRS 439A.081.
NRS 439A.020 (Purpose of Chapter)

- Promote equal access to quality health care at a reasonable cost;
- Promote an adequate supply and distribution of health resources;
- Promote uniform, effective methods of delivering health care;
- Promote the adequate distribution of health care facilities and manpower;
- Encourage participation in health planning by members of several health professions, and the general public;
- Utilize the viewpoint of the general public for making decisions;
- Encourage public education regarding health care;
- Promote a program of technical assistance to contain the cost of health care.
The Department shall perform the function of health planning according to the following priorities:

- Providing for the effective use of methods for controlling increase in the cost of health care
- Providing for the adequate supply and distribution of health resources
- Providing for equal access to health care of good quality at a reasonable cost
- Providing education to the public regarding personal health and use of health services
Certificate of Need History

- Enacted by the Nevada State Legislature during the 1971 session,
- Became effective in August 1972.
- Amended in 1991 to exempt Counties with populations of 100,000 or more.
- Amended in 1995 to include only construction of new health facilities involving capital expenditures over $2 million.
- Amended in 2003, to exclude construction of hospitals in unincorporated towns from CON review, if:
  - The population of the town is more than 24,000,
  - No other hospital exists in the town,
  - The town is at least a 45-minute drive from the nearest trauma center,
  - No other hospital has been approved for construction.
CON Process

1. Letter of Intent received
   1.1 Letter of Determination: Meets criteria for CON review
      - YES: Application for Letter of Approval submitted
         - Application: Public Hearing held within 45 days of receipt of application
      - NO: CON Review
         - Letter of Approval or Letter of Disapproval from Director, DHHS
CON Process
Pursuant to Chapter NAC 439A

- Letter of Intent, NAC 439A.305 to NAC 439A.315
  - Any person who intends to initiate a project that may be subject to CON review shall submit a Letter of Intent to the Department of Health and Human Services before incurring a capital expenditure for the project.
  - A determination is made whether the project meets the criteria, pursuant to NRS 439A.100, for a full CON review. The applicant will be notified of the decision by mail.
Letter of Approval
Application Form

● CON review requirements, NAC 439A.345 to NAC 439A.445
  ► An original and three copies of a completed application are submitted to the Department.
  ► A cashier’s check for $9,500 must be submitted with the application.
  ► The $9,500 application fee is deposited in the State’s general fund.
  ► The application fee was established in 1984, and has never been adjusted.
  ► The application review period begins the day the application is received by the Department.
  ► Within 45 days of application receipt, the Department will provide a public hearing.
Letter of Approval

- Letter of Approval, NAC 439A.455
  - Within 30 days after the public hearing, the Director will issue to each applicant a Letter of Approval or Disapproval, together with the Findings of Fact.

- Reconsideration of decisions, NAC 439A.515
  - Any applicant who is subject to a letter of disapproval or whose Letter of Approval has been withdrawn may request reconsideration of the decision by the Director.
Additional Approvals

- Further approval from the Director for CON projects is required for:
  - Extension of the approved timetable, NAC 439A.475
  - Transfer of interest, NAC 439A.485
  - Removal or alteration of conditions, NAC 439A.495
  - Withdrawal of a letter of approval, NAC 439A.505
  - Reconsideration of decisions, NAC 439A.515
## CON Projects 1995–2005

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Applicant</th>
<th>Project</th>
<th>Estimated Cost</th>
<th>Approval/Disapproval</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>95-96</td>
<td>Virginia Creek SNF</td>
<td>90 Bed SNF</td>
<td>$2,812,000</td>
<td>Approved 3/1/1996</td>
<td>Open and operating as Evergreen at Gardnerville</td>
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<td>Gardnerville</td>
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<tr>
<td>95-96</td>
<td>Carson Healthcare</td>
<td>120 Bed SNF</td>
<td>$5,066,000</td>
<td>Approved 4/29/1996</td>
<td>Open and operating as Evergreen at Carson City</td>
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<td></td>
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<td>Carson City</td>
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<tr>
<td>96-97</td>
<td>Pahrump Healthcare</td>
<td>120 Bed SNF</td>
<td>$4,719,000</td>
<td>Approved 10/2/1996</td>
<td>Open and operating as Evergreen at Pahrump</td>
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<td>Pahrump</td>
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<tbody>
<tr>
<td>96-97</td>
<td>Carson-Tahoe Hospital</td>
<td>20 Bed Sub-acute Care/Rehab</td>
<td>$5,000,000</td>
<td>Approved 11/7/1996</td>
<td>Closed 12/18/2005 Relocated service to new hospital</td>
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<td>98-99</td>
<td>Integrated Health Services</td>
<td>73 Bed SNF Carson City</td>
<td>$5,000,000</td>
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<td>Withdrawn 9/17/1998</td>
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<tbody>
<tr>
<td>99-00</td>
<td>Province Healthcare</td>
<td>75 bed Replacement Hospital Elko</td>
<td>$30,000,000</td>
<td>Approved 10/11/1999</td>
<td>Completed 9/2001 Northeastern NV Regional Hospital</td>
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<td>10/11/1999</td>
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<tr>
<td>00-01</td>
<td>Pahrump Hospital District</td>
<td>40 bed Hospital Pahrump</td>
<td>$26,305,000</td>
<td>Disapproved 6/8/2001</td>
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<td>Comparative Review</td>
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<td>00-01</td>
<td>Banner Health System</td>
<td>40 bed Hospital Pahrump</td>
<td>$26,000,000</td>
<td>Approved 6/8/2001</td>
<td>Voluntarily Withdrawn 11/8/2001</td>
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<td>Comparative Review</td>
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<tr>
<td>01-02</td>
<td>Douglas County Healthcare</td>
<td>150 bed SNF Minden</td>
<td>$7,256,000</td>
<td>Approved 9/7/2001</td>
<td>Has not broken ground to date</td>
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<tbody>
<tr>
<td>01-02</td>
<td>Pahrump Health Facilities</td>
<td>25 bed Hospital Pahrump</td>
<td>$10,838,690</td>
<td>Disapproved 7/17/2002</td>
<td>Open to visitors, not licensed for patient care at this time.</td>
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<td>01-02</td>
<td>Rural Health Management Corporation (RHMC)</td>
<td>25 bed Hospital Pahrump</td>
<td>$28,604,638</td>
<td>Approved 7/17/2002</td>
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<tr>
<td>01-02</td>
<td>North Las Vegas</td>
<td>HUD 242 Feasibility Study required by HUD regulation</td>
<td>$144,000,000</td>
<td>Approved 10/22/2003</td>
<td>Has not broken ground to date</td>
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<tbody>
<tr>
<td>02-03</td>
<td>Banner Health System</td>
<td>MRI Suite Addition to Banner Churchill</td>
<td>$2,778,886</td>
<td>Approved 3/7/2003</td>
<td>Completed 6/2004</td>
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<td></td>
<td></td>
<td>Community Hospital</td>
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<td>02-03</td>
<td>Carson-Tahoe Hospital</td>
<td>119 bed Replacement Hospital Carson City</td>
<td>$132,000,000</td>
<td>Approved 3/25/2003</td>
<td>Completed 12/2005</td>
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<tr>
<td>02-03</td>
<td>Carson Ambulatory Surgery Center</td>
<td>Replacement Facility Carson ASC</td>
<td>$21,400,000</td>
<td>Approved 4/7/2003</td>
<td>Completed 3/2005</td>
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<tr>
<td>02-03</td>
<td>RFMS, Inc</td>
<td>102 bed SNF Fallon</td>
<td>$5,726,655</td>
<td>Approved 12/13/2004</td>
<td>Completed 12/2004 Highland Manor of Fallon</td>
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<td>03-04</td>
<td>Vitality Center</td>
<td>52 Bed Residential Substance Abuse Elko</td>
<td>$3,745,485</td>
<td>Approved 12/13/2004</td>
<td>Has not broken ground to date</td>
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<td>04-05</td>
<td>CTH Dayton Hospital (Carson-Tahoe</td>
<td>15 bed Hospital Dayton</td>
<td>$12,662,000</td>
<td>Approved 5/13/2005</td>
<td>Has not broken ground to date</td>
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<tr>
<td></td>
<td>Hospital)</td>
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<tr>
<td>04-05</td>
<td>Carson-Douglas Ambulatory Surgery</td>
<td>Freestanding ASC</td>
<td>$3,592,040</td>
<td>Approved 7/28/05</td>
<td>Leased space not ready for ASC build out</td>
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</tbody>
</table>
Non CON States

Arizona
California
Colorado
Idaho
Indiana
Kansas
Minnesota
New Mexico
North Dakota
Pennsylvania
South Dakota
Texas
Utah
Wyoming

Clark and Washoe Counties are exempt from the CON Review
Advantages of CON in Nevada

- Potentially decreases health care costs by limiting competition. *Any decreases in health care costs from CON in Nevada cannot be verified.*
- Gives the public an opportunity for input on CON projects, through the public hearing or individually to the Department.
- Reviews the sufficiency of the applicant’s capital for completion of the project.
Disadvantages of CON in Nevada

- Potentially increases health care costs by limiting competition.  
  *Any increases in health care costs from CON in Nevada cannot be verified.*
- Delays the construction process, increasing public frustration.
- Limits access to new technology in favor of old technology.
- Potential for abuse, for applicants who rush to get approval, then make significant changes to the project, including increasing the scope and cost of the project, and increasing administrative work load.
- A State administrative burden.