



General Assembly

Substitute Bill No. 5639

January Session, 2007

* _____HB05639APP___041907_____*

AN ACT CONCERNING THE CLOSING OF A LONG-TERM CARE FACILITY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17b-353 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2007*):

3 (a) Any facility, as defined in subsection (a) of section 17b-352,
4 which proposes (1) a capital expenditure exceeding one million
5 dollars, which increases facility square footage by more than five
6 thousand square feet or five per cent of the existing square footage,
7 whichever is greater, (2) a capital expenditure exceeding two million
8 dollars, or (3) the acquisition of major medical equipment requiring a
9 capital expenditure in excess of four hundred thousand dollars,
10 including the leasing of equipment or space, shall submit a request for
11 approval of such expenditure, with such information as the
12 department requires, to the Department of Social Services. Any such
13 facility which proposes to acquire imaging equipment requiring a
14 capital expenditure in excess of four hundred thousand dollars,
15 including the leasing of such equipment, shall obtain the approval of
16 the Office of Health Care Access in accordance with section 19a-639,
17 subsequent to obtaining the approval of the Commissioner of Social
18 Services. Prior to the facility's obtaining the imaging equipment, the
19 Commissioner of the Office of Health Care Access, after consultation

20 with the Commissioner of Social Services, may elect to perform a joint
21 or simultaneous review with the Department of Social Services.

22 (b) An applicant, prior to submitting a certificate of need
23 application, shall request, in writing, application forms and
24 instructions from the department. The request shall include: (1) The
25 name of the applicant or applicants; (2) a statement indicating whether
26 the application is for (A) a new, additional, expanded or replacement
27 facility, service or function, (B) a termination or reduction in a
28 presently authorized service or bed capacity or (C) any new, additional
29 or terminated beds and their type; (3) the estimated capital cost; (4) the
30 town where the project is or will be located; and (5) a brief description
31 of the proposed project. Such request shall be deemed a letter of intent.
32 No certificate of need application shall be considered submitted to the
33 department unless a current letter of intent, specific to the proposal
34 and in accordance with the provisions of this subsection, has been on
35 file with the department for not less than ten business days. For
36 purposes of this subsection, "a current letter of intent" means a letter of
37 intent on file with the department for not more than one hundred
38 eighty days. A certificate of need application shall be deemed
39 withdrawn by the department if a department completeness letter is
40 not responded to within one hundred eighty days.

41 (c) In conducting its activities pursuant to this section, section 17b-
42 352 or both, the commissioner or said commissioner's designee [may]
43 shall hold a public hearing on an application or on more than one
44 application, if such applications are of a similar nature with respect to
45 the request. [At least two weeks' notice of the hearing shall be given to
46 the facility] The commissioner or the commissioner's designee shall
47 provide both the facility and the public with notice of the date of the
48 hearing not less than fourteen days in advance of such date. Notice to
49 the facility shall be by certified mail and notice to the public shall be by
50 publication in a newspaper having a substantial circulation in the area
51 served by the facility. Such hearing shall be held at the [discretion of
52 the commissioner in Hartford or in the area so served] facility for
53 which the application was submitted. The commissioner or said

54 commissioner's designee shall consider such request in relation to the
55 community or regional need for such capital program or purchase of
56 land, the possible effect on the operating costs of the facility and such
57 other relevant factors as the commissioner or said commissioner's
58 designee deems necessary. In approving or modifying such request,
59 the commissioner or said commissioner's designee may not prescribe
60 any condition, such as, but not limited to, any condition or limitation
61 on the indebtedness of the facility in connection with a bond issued,
62 the principal amount of any bond issued or any other details or
63 particulars related to the financing of such capital expenditure, not
64 directly related to the scope of such capital program and within the
65 control of the facility. If the hearing is conducted by a designee of the
66 commissioner, the designee shall submit any findings and
67 recommendations to the commissioner. The commissioner shall grant,
68 modify or deny such request within ninety days, except as provided
69 for in this section. Upon the request of the applicant, the review period
70 may be extended for an additional fifteen days if the commissioner or
71 said commissioner's designee has requested additional information
72 subsequent to the commencement of the review period. The
73 commissioner or said commissioner's designee may extend the review
74 period for a maximum of thirty days if the applicant has not filed in a
75 timely manner information deemed necessary by the commissioner or
76 said commissioner's designee.

77 (d) The Commissioner of Social Services shall adopt regulations, in
78 accordance with chapter 54, to implement the provisions of this
79 section. The commissioner shall implement the standards and
80 procedures of the Office of Health Care Access concerning certificates
81 of need established pursuant to section 19a-643, as appropriate for the
82 purposes of this section, until the time final regulations are adopted in
83 accordance with said chapter 54.

84 Sec. 2. Subsection (a) of section 17b-354 of the general statutes is
85 repealed and the following is substituted in lieu thereof (*Effective from*
86 *passage*):

87 (a) Except for applications deemed complete as of August 9, 1991,
88 the Department of Social Services shall not accept or approve any
89 requests for additional nursing home beds or modify the capital cost of
90 any prior approval for the period from September 4, 1991, through
91 June 30, [2007] 2012, except (1) beds restricted to use by patients with
92 acquired immune deficiency syndrome or traumatic brain injury; (2)
93 beds associated with a continuing care facility which guarantees life
94 care for its residents; (3) Medicaid certified beds to be relocated from
95 one licensed nursing facility to another licensed nursing facility,
96 provided (A) the availability of beds in an area of need will not be
97 adversely affected; (B) no such relocation shall result in an increase in
98 state expenditures; and (C) the relocation results in a reduction in the
99 number of nursing facility beds in the state; (4) a request for no more
100 than twenty beds submitted by a licensed nursing facility that
101 participates in neither the Medicaid program nor the Medicare
102 program, admits residents and provides health care to such residents
103 without regard to their income or assets and demonstrates its financial
104 ability to provide lifetime nursing home services to such residents
105 without participating in the Medicaid program to the satisfaction of
106 the department, provided the department does not accept or approve
107 more than one request pursuant to this subdivision; and (5) a request
108 for no more than twenty beds associated with a free standing facility
109 dedicated to providing hospice care services for terminally ill persons
110 operated by an organization previously authorized by the Department
111 of Public Health to provide hospice services in accordance with section
112 19a-122b. Notwithstanding the provisions of this subsection, any
113 provision of the general statutes or any decision of the Office of Health
114 Care Access, (i) the date by which construction shall begin for each
115 nursing home certificate of need in effect August 1, 1991, shall be
116 December 31, 1992, (ii) the date by which a nursing home shall be
117 licensed under each such certificate of need shall be October 1, 1995,
118 and (iii) the imposition of such dates shall not require action by the
119 Commissioner of Social Services. Except as provided in subsection (c)
120 of this section, a nursing home certificate of need in effect August 1,
121 1991, shall expire if construction has not begun or licensure has not

