



# Senate

General Assembly

**File No. 430**

February Session, 2008

Senate Bill No. 622

*Senate, April 3, 2008*

The Committee on Public Health reported through SEN. HANDLEY of the 4th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

***AN ACT CONCERNING CERTIFICATES OF NEED ISSUED BY THE OFFICE OF HEALTHCARE ACCESS.***

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

1 Section 1. Subsection (a) of section 19a-637 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective July*  
3 *1, 2008*):

4 (a) In any of its deliberations involving a proposal, request or  
5 submission regarding [rates or] (1) services provided by a health care  
6 facility or institution under section 19a-638; (2) capital expenditures by  
7 a health care facility under section 19a-639 of the 2008 supplement to  
8 the general statutes; and (3) the acquisition of equipment by a person,  
9 provider, health facility or institution under section 19a-639 of the 2008  
10 supplement to the general statutes, the office shall take into  
11 consideration and make written findings concerning each of the  
12 following principles and guidelines: The relationship of the proposal,  
13 request or submission to the state health plan pursuant to section 19a-  
14 7; the relationship of the proposal, request or submission to the

15 applicant's long-range plan; the financial feasibility of the proposal,  
16 request or submission and its impact on the applicant's rates and  
17 financial condition; the impact of such proposal, request or submission  
18 on the interests of consumers of health care services and the payers for  
19 such services; the contribution of such proposal, request or submission  
20 to the quality, accessibility and cost-effectiveness of health care  
21 delivery in the region; whether there is a clear public need for any  
22 proposal or request; whether the health care facility or institution is  
23 competent to provide efficient and adequate service to the public in  
24 that such health care facility or institution is technically, financially  
25 and managerially expert and efficient; that rates be sufficient to allow  
26 the health care facility or institution to cover its reasonable capital and  
27 operating costs; the relationship of any proposed change to the  
28 applicant's current utilization statistics; the teaching and research  
29 responsibilities of the applicant; the special characteristics of the  
30 patient-physician mix of the applicant; the voluntary efforts of the  
31 applicant in improving productivity and containing costs; and any  
32 other factors which the office deems relevant, including, in the case of  
33 a facility or institution as defined in subsection (c) of section 19a-490 of  
34 the 2008 supplement to the general statutes, such factors as, but not  
35 limited to, the business interests of all owners, partners, associates,  
36 incorporators, directors, sponsors, stockholders and operators and the  
37 personal backgrounds of such persons. Whenever the granting,  
38 modification or denial of a request is inconsistent with the state health  
39 plan, a written explanation of the reasons for the inconsistency shall be  
40 included in the decision.

41 Sec. 2. Section 19a-639a of the 2008 supplement to the general  
42 statutes is repealed and the following is substituted in lieu thereof  
43 (*Effective from passage*):

44 (a) Except as provided in subsection (c) of section 19a-639 of the  
45 2008 supplement to the general statutes or as required in subsection (b)  
46 of this section, the provisions of section 19a-638 and subsection (a) of  
47 section 19a-639 of the 2008 supplement to the general statutes shall not  
48 apply to: (1) An outpatient clinic or program operated exclusively by,

49 or contracted to be operated exclusively for, a municipality or  
50 municipal agency, a health district, as defined in section 19a-240, or a  
51 board of education; (2) a residential facility for the mentally retarded  
52 licensed pursuant to section 17a-227 of the 2008 supplement to the  
53 general statutes and certified to participate in the Title XIX Medicaid  
54 program as an intermediate care facility for the mentally retarded; (3)  
55 an outpatient rehabilitation service agency that was in operation on  
56 January 1, 1998, that is operated exclusively on an outpatient basis and  
57 that is eligible to receive reimbursement under section 17b-243; (4) a  
58 clinical laboratory; (5) an assisted living services agency; (6) an  
59 outpatient service offering chronic dialysis; (7) a program of  
60 ambulatory services established and conducted by a health  
61 maintenance organization; (8) a home health agency; (9) a clinic  
62 operated by the Americares Foundation; (10) a nursing home; or (11) a  
63 rest home. The exemptions provided in this section shall not apply  
64 when a nursing home or rest home is, or will be created, acquired,  
65 operated or in any other way related to or affiliated with, or under the  
66 complete or partial ownership or control of a facility or institution or  
67 affiliate subject to the provisions of section 19a-638 or subsection (a) of  
68 section 19a-639 of the 2008 supplement to the general statutes.

69 (b) Each health care facility or institution exempted under this  
70 section shall register with the office by filing the information required  
71 by subdivision (4) of subsection (a) of section 19a-638 for a letter of  
72 intent at least [ten business] fourteen days but not more than sixty  
73 calendar days prior to commencing operations and prior to changing,  
74 expanding, terminating or relocating any facility or service otherwise  
75 covered by section 19a-638 or subsection (a) of section 19a-639 of the  
76 2008 supplement to the general statutes or covered by both sections or  
77 subsections, except that, if the facility or institution is in operation on  
78 June 5, 1998, said information shall be filed not more than sixty days  
79 after said date. Not later than [ten business] fourteen days after the  
80 date that the office receives a completed filing required under this  
81 subsection, the office shall provide the health care facility or institution  
82 with written acknowledgment of receipt. Such acknowledgment shall  
83 constitute permission to operate or change, expand, terminate or

84 relocate such a facility or institution or to make an expenditure  
85 consistent with an authorization received under subsection (a) of  
86 section 19a-639 of the 2008 supplement to the general statutes until the  
87 next September thirtieth. Each entity exempted under this section shall  
88 renew its exemption by filing current information once every two  
89 years in September.

90 (c) Each health care facility, institution or provider that proposes to  
91 purchase, lease or accept donation of a CT scanner, PET scanner,  
92 PET/CT scanner or MRI scanner, cineangiography equipment or a  
93 linear accelerator shall be exempt from certificate of need review  
94 pursuant to sections 19a-638 and 19a-639 of the 2008 supplement to the  
95 general statutes if such facility, institution or provider (1) provides to  
96 the office satisfactory evidence that it purchased or leased such  
97 equipment for under four hundred thousand dollars on or before July  
98 1, 2005, and such equipment was in operation on or before July 1, 2006,  
99 or (2) obtained, on or before July 1, 2005, from the office, a certificate of  
100 need or a determination that a certificate of need was not required for  
101 the purchase, lease or donation acceptance of such equipment.

102 (d) The Office of Health Care Access shall, in its discretion, exempt  
103 from certificate of need review pursuant to sections 19a-638 and 19a-  
104 639 of the 2008 supplement to the general statutes any health care  
105 facility or institution that proposes to purchase or operate an electronic  
106 medical records system on or after October 1, 2005.

107 (e) Each health care facility or institution that proposes a capital  
108 expenditure for parking lots and garages, information and  
109 communications systems, physician and administrative office space,  
110 acquisition of land for nonclinical purposes, and acquisition and  
111 replacement of nonmedical equipment, including, but not limited to,  
112 boilers, chillers, heating ventilation and air conditioning systems, shall  
113 be exempt for such capital expenditure from certificate of need review  
114 under subsection (a) of section 19a-639 of the 2008 supplement to the  
115 general statutes, provided (1) the health care facility or institution  
116 submits information to the office regarding the type of capital

117 expenditure, the reason for the capital expenditure, the total cost of the  
118 project and any other information which the office deems necessary;  
119 and (2) the total capital expenditure does not exceed twenty-million  
120 dollars. Approval of a health care facility's or institution's proposal for  
121 acquisition of land for nonclinical purposes shall not exempt such  
122 facility or institution from compliance with any of the certificate of  
123 need requirements prescribed in chapter 368z if such facility or  
124 institution subsequently seeks to develop the land that was acquired  
125 for nonclinical purposes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2008</i>	19a-637(a)
Sec. 2	<i>from passage</i>	19a-639a

**PH**      *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

The bill codifies current Office of Health Care Access practice as well as making technical changes to its Certificate of Need processes. This will not result in a fiscal impact to the agency.

***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

**OLR Bill Analysis****SB 622*****AN ACT CONCERNING CERTIFICATES OF NEED ISSUED BY THE OFFICE OF HEALTHCARE ACCESS.*****SUMMARY:**

This bill amends the Office of Health Care Access (OHCA) certificate of need (CON) review process by:

1. adding a new exemption for capital expenditures for non-clinical purposes if certain conditions are met;
2. changing certain registration and notice periods applicable to exempt facilities and institutions; and
3. specifying that when reviewing CON applications for capital expenditures or for the acquisition of equipment by health care facilities, institutions, providers, or persons, OHCA must consider a set of existing statutory principles and guidelines concerning financial feasibility, impact on health care quality and accessibility, and the public need for the proposal.

EFFECTIVE DATE: Upon passage for the new CON exemption; July 1, 2008 for the other provisions.

**NEW CON EXEMPTION FOR CERTAIN CAPITAL EXPENDITURES**

The bill adds a new exemption from CON review for capital expenditures for parking lots and garages, information and communications systems, physician and administrative office space, land acquisition for non-clinical purposes, and acquisition and replacement of nonmedical equipment. This latter category includes boilers; chillers; and heating, ventilation, and air conditioning systems.

In order to be exempt, (1) the health care facility or institution must provide OHCA with information concerning the type of capital expenditure, the total cost of the project, and other information OHCA requests and (2) the total capital expenditure cannot exceed \$20 million.

The bill specifies that OHCA's approval of an exemption for land acquisition for non-clinical purposes does not exempt the facility from CON requirements if the facility seeks to develop the land in the future. (It is not clear what is meant by OHCA "approval" in this context.)

### **EXEMPT FACILITIES-REGISTRATION WITH OHCA**

Current law requires entities exempt from CON to register with OHCA every two years in order to renew their exemption status. The exempt entity must file the information required for a "letter of intent" (see BACKGROUND) between 10 business and 60 calendar days before beginning operations or changing, expanding, terminating, or relocating any facility or service otherwise subject to CON. The bill changes this filing period to between 14 and 60 calendar days.

The bill requires OHCA to provide the entity with a written acknowledgement of receiving the completed filing within 14 days instead of 10 business days.

Existing law exempts municipal, school, and health district outpatient clinics and programs; intermediate care residential facilities for people with mental retardation; certain outpatient rehabilitation services; clinical laboratories; assisted living services; outpatient dialysis units; HMO outpatient clinics; home health agencies; a clinic operated by Americares; and certain nursing and rest homes.

### **BACKGROUND**

#### ***Certificate of Need (CON)***

CON authorization is required from OHCA when a health care facility proposes a medical equipment purchase, introduction of an additional function or service, a reduction or termination in services,

or changes in ownership or control. Connecticut health care facilities, including ambulatory care centers and outpatient behavioral health programs, must obtain a CON prior to developing, expanding or closing certain services and expending more than \$3 million on a capital project. Additionally, any person is required to obtain a CON if he or she proposes to acquire major medical equipment with a capital cost of over \$3 million.

CON approval, regardless of cost, is required for anyone acquiring, purchasing, or accepting donation of a CT scanner, PET scanner, PET/CT scanner, MRI, cineangiography equipment, a new linear accelerator, or similar equipment utilizing new technology that is being introduced to the state.

The CON process is a two-step procedure consisting of (1) a CON Determination and/or Letter of Intent (LOI) and (2) the application process. Through the LOI process, the applicant notifies OHCA of the project intent, description, and cost. A CON determination form is submitted to OHCA if the applicant is unsure if a CON is required for the proposal.

***Related Bill***

SB 420 (File 132), favorably reported by the Public Health Committee, makes a number of technical changes to OHCA statutes. It also repeals obsolete provisions.

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable

Yea 28 Nay 0 (03/14/2008)