



General Assembly

February Session, 2008

Raised Bill No. 420

LCO No. 1705

01705_____PH_

Referred to Committee on Public Health

Introduced by:
(PH)

**AN ACT CONCERNING REVISIONS TO THE STATUTES OF THE
OFFICE OF HEALTH CARE ACCESS.**

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

1 Section 1. Section 19a-638 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2008*):

3 (a) Except as provided in sections 19a-487a of the 2008 supplement
4 to the general statutes and 19a-639a to 19a-639c, inclusive, of the 2008
5 supplement to the general statutes:

6 (1) Each health care facility or institution, that intends to (A) transfer
7 all or part of its ownership or control, (B) change the governing powers
8 of the board of a parent company or an affiliate, whatever its
9 designation, or (C) change or transfer the powers or control of a
10 governing or controlling body of an affiliate, shall submit to the office,
11 prior to the proposed date of such transfer or change, a request for
12 permission to undertake such transfer or change.

13 (2) Each health care facility or institution or state health care facility
14 or institution, including any inpatient rehabilitation facility, which

15 intends to introduce any additional function or service into its
16 program of health care shall submit to the office, prior to the proposed
17 date of the institution of such function or service, a request for
18 permission to undertake such function or service.

19 (3) Each health care facility or institution or state health care facility
20 or institution which intends to terminate a health service offered by
21 such facility or institution or reduce substantially its total bed capacity,
22 shall submit to the office, prior to the proposed date of such
23 termination or decrease, a request to undertake such termination or
24 decrease.

25 (4) Except as provided in sections 19a-639a to 19a-639c, inclusive, of
26 the 2008 supplement to the general statutes each applicant, prior to
27 submitting a certificate of need application under this section or
28 section 19a-639, or under both sections, shall submit a request, in
29 writing, for application forms and instructions to the office. The
30 request shall be known as a letter of intent. A letter of intent shall
31 include: (A) The name of the applicant or applicants; (B) a statement
32 indicating whether the application is for (i) a new, replacement or
33 additional facility, service or function, (ii) the expansion or relocation
34 of an existing facility, service or function, (iii) a change in ownership or
35 control, (iv) a termination of a service or a reduction in total bed
36 capacity and the bed type, (v) any new or additional beds and their
37 type, (vi) a capital expenditure over three million dollars, (vii) the
38 purchase, lease or donation acceptance of major medical equipment
39 costing over three million dollars, (viii) a CT scanner, PET scanner,
40 PET/CT scanner or MRI scanner, cineangiography equipment, a linear
41 accelerator or other similar equipment utilizing technology that is new
42 or being introduced into the state, or (ix) any combination thereof; (C)
43 the estimated capital cost, value or expenditure; (D) the town where
44 the project is or will be located; and (E) a brief description of the
45 proposed project. The office shall provide public notice of any
46 complete letter of intent submitted under this section or section 19a-
47 639, or both, by publication in a newspaper having a substantial

48 circulation in the area served or to be served by the applicant. Such
49 notice shall be submitted for publication not later than [fifteen
50 business] twenty-one days after [a determination] the date the office
51 determines that a letter of intent is complete. No certificate of need
52 application will be considered submitted to the office unless a current
53 letter of intent, specific to the proposal and in compliance with this
54 subsection, has been on file with the office [at least] for not less than
55 sixty days. A current letter of intent is a letter of intent that has been on
56 file at the office up to and including one hundred twenty days, except
57 that an applicant may request a one-time extension of a letter of intent
58 of up to an additional thirty days for a maximum total of up to one
59 hundred fifty days if, prior to the expiration of the current letter of
60 intent, the office receives a written request to so extend the letter of
61 intent's current status. The extension request shall fully explain why an
62 extension is requested. The office shall accept or reject the extension
63 request not later than [five business] seven days from the date the
64 office receives such request and shall so notify the applicant.

65 (b) The office shall make such review of a request made pursuant to
66 subdivision (1), (2) or (3) of subsection (a) of this section as it deems
67 necessary. In the case of a proposed transfer of ownership or control,
68 the review shall include, but not be limited to, the financial
69 responsibility and business interests of the transferee and the ability of
70 the institution to continue to provide needed services or, in the case of
71 the introduction of a new or additional function or service expansion
72 or the termination of a service or function, ascertaining the availability
73 of such service or function at other inpatient rehabilitation facilities,
74 health care facilities or institutions or state health care facilities or
75 institutions or other providers within the area to be served, the need
76 for such service or function within such area and any other factors
77 which the office deems relevant to a determination of whether the
78 facility or institution is justified in introducing or terminating such
79 functions or services into or from its program. The office shall grant,
80 modify or deny such request no later than ninety days after the date of
81 receipt of a complete application, except as provided for in this section.

82 Upon the request of the applicant, the review period may be extended
83 for an additional fifteen days if the office has requested additional
84 information subsequent to the commencement of the review period.
85 The commissioner may extend the review period for a maximum of
86 thirty days if the applicant has not filed in a timely manner
87 information deemed necessary by the office. Failure of the office to act
88 on such request within such review period shall be deemed approval
89 thereof. The ninety-day review period, pursuant to this subsection, for
90 an application filed by a hospital, as defined in section 19a-490 of the
91 2008 supplement to the general statutes, and licensed as a short-term
92 acute-care general hospital or children's hospital by the Department of
93 Public Health or an affiliate of such a hospital or any combination
94 thereof, shall not apply if, in the certificate of need application or
95 request, the hospital or applicant projects either (1) that, for the first
96 three years of operation taken together, the total impact of the proposal
97 on the operating budget of the hospital or an affiliate of such a hospital
98 or any combination thereof will exceed one per cent of the actual
99 operating expenses of the hospital for the most recently completed
100 fiscal year as filed with or determined by the office, or (2) that the total
101 capital expenditure for the project will exceed fifteen million dollars. If
102 the office determines that an application is not subject to the ninety-
103 day review period pursuant to this subsection, it shall remain so
104 excluded for the entire review period of that application, even if the
105 application or circumstances change and the application no longer
106 meets the stated terms of the exclusion. Upon a showing by such
107 facility or institution that the need for such function, service or
108 termination or change of ownership or control is of an emergency
109 nature, in that the function, service or termination or change of
110 ownership or control is necessary to maintain continued access to the
111 health care services provided by the facility or institution, or to comply
112 with requirements of any federal, state or local health, fire, building or
113 life safety code, the commissioner may waive the letter of intent
114 requirement, provided such request shall be submitted [at least ten
115 business] not less than fourteen days before the proposed date of

116 institution of the function, service or termination or change of
117 ownership or control.

118 (c) (1) The office may hold a public hearing with respect to any
119 complete certificate of need application submitted under this section.
120 At least two weeks' notice of such public hearing shall be given to the
121 applicant, in writing, and to the public by publication in a newspaper
122 having a substantial circulation in the area served by the facility,
123 institution or provider. At the discretion of the office, such hearing
124 may be held in Hartford or in the area so served or to be served. In
125 conducting its activities under this section, section 19a-639, or under
126 both sections, the office may hold hearings on applications of a similar
127 nature at the same time.

128 (2) The office may hold a public hearing after consideration of
129 criteria that include, but need not be limited to, whether the proposal
130 involves: (A) The provision of a new or additional health care function
131 or service through the use of technology that is new or being
132 introduced into the state; (B) the provision of a new or additional
133 health care function or service that is not provided in either a region
134 designated by the applicant or in the applicant's existing primary
135 service area as defined by the office; or (C) the termination of an
136 existing health care function or service, the reduction of total beds or
137 the closing of a health care facility.

138 (3) The office shall hold a public hearing with respect to any
139 complete certificate of need application submitted to the office under
140 this section if (A) three individuals or an individual representing an
141 entity with five or more people submit a request, in writing, that a
142 public hearing be held on the proposal after the office has published
143 notice of a complete letter of intent, and (B) such request is received by
144 the office not later than twenty-one [calendar] days after the date that
145 the office deems the certificate of need application complete.

146 [(d) For the purposes of this section, section 19a-639 or both
147 sections, construction shall be deemed to have begun if the following

148 have occurred and the office has been so notified in writing within the
149 thirty days prior to the date by which construction is to begin: (1) All
150 necessary town, state and federal approvals required to begin
151 construction have been obtained, including all zoning and wetlands
152 approvals; (2) all necessary town and state permits required to begin
153 construction or site work have been obtained; (3) financing approval,
154 as defined in subsection (e) of this section, has been obtained; and (4)
155 construction of a structure approved in the certificate of need has
156 begun. For the purposes of this subsection, commencement of
157 construction of a structure shall include, at a minimum, completion of
158 a foundation. Notwithstanding the provisions of this subsection, upon
159 receipt of an application filed at least thirty days prior to the date by
160 which construction is to begin, the office may deem construction to
161 have begun if (A) an owner of a certificate of need has fully complied
162 with the provisions of subdivisions (1), (2) and (3) of this subsection;
163 (B) such owner submits clear and convincing evidence that he has
164 complied with the provisions of this subsection sufficiently to
165 demonstrate a high probability that construction shall be completed in
166 time to obtain licensure by the Department of Public Health on or
167 before the date required in the certificate of need as the office may
168 amend it from time to time; (C) construction of a structure cannot
169 begin due to unforeseeable circumstances beyond the control of the
170 owner; and (D) at least ten per cent of the approved total capital
171 expenditure or two hundred fifty thousand dollars, whichever is
172 greater, has been expended.

173 (e) Financing shall be deemed to have been obtained for the
174 purposes of this section if the owner of the certificate of need has (1)
175 received a final commitment for financing in writing from a lender, or
176 (2) provided evidence to the office that the owner has sufficient funds
177 available to construct the project without financing.

178 (f) The General Assembly finds evidence of insufficient need for all
179 the nursing home beds approved by the Office of Health Care Access
180 but not yet constructed and finds allowing unnecessary beds and

181 facilities to be built will result in severely damaging economic
182 consequences to the state and to consumers. All certificates of need for
183 nursing home beds granted pursuant to this section shall expire on
184 June 9, 1993, except (1) beds for which an application for financing was
185 received and deemed complete by the Connecticut Health and
186 Educational Facilities Authority prior to March 1, 1993; (2) beds
187 restricted to use by patients with acquired immune deficiency
188 syndrome or traumatic brain injury; (3) beds associated with a
189 continuing care facility which guarantees life care for its residents as
190 defined in subsection (b) of section 17b-354; (4) beds authorized under
191 a certificate of need for an addition of five beds in a facility which has
192 undertaken the addition of ten beds pursuant to section 17b-351; and
193 (5) beds for which twenty-five per cent of project costs have been
194 expended prior to June 9, 1993, as submitted to the Office of Health
195 Care Access in the form of a report prepared by a certified public
196 accountant having no affiliation with the owner of the certificate of
197 need or the developer of the project. A certificate of need which has
198 expired pursuant to this subsection may be reauthorized by the Office
199 of Health Care Access, provided need for nursing home beds exists
200 and twenty per cent or more of the project costs have been expended
201 by June 9, 1993. A request for reauthorization shall be submitted to the
202 Office of Health Care Access no later than July 15, 1993. The office shall
203 issue a decision on such request within forty-five days of receipt of
204 documentation necessary to determine expended project costs. Project
205 expenditures shall cease from June 9, 1993, until reauthorization by the
206 office. Evidence of project costs expended shall be submitted in the
207 form of a report prepared by a certified public accountant having no
208 affiliation with the owner of the certificate of need or the developer of
209 the project. For the purposes of this section, "need for nursing home
210 beds" means there is a demonstrated bed need in the towns within
211 twenty miles of the town in which the facility is proposed to be
212 located, including the town of the proposed location, as listed in the
213 March 1, 1974, official mileage table of the Public Utilities Commission.
214 Bed need shall be projected no more than five years into the future at

215 ninety-seven and one-half per cent occupancy using the latest official
216 population projections by town and age as published by the Office of
217 Policy and Management and the latest available nursing home
218 utilization statistics by age cohort from the Department of Public
219 Health. For the purposes of this subsection, "project costs" means the
220 capital costs approved by the Office of Health Care Access in the
221 certificate of need, exclusive of the cost of land acquisition. Owners of
222 certificates of need for nursing home beds which have expired may
223 apply to the Commissioner of Social Services for compensation on or
224 after June 29, 1993, but no later than September 1, 1993. Such
225 compensation shall be limited to actual verifiable losses which directly
226 result from the expiration of the certificate of need pursuant to this
227 subsection and which cannot be otherwise recouped through the
228 mitigating efforts of the owner, excluding consequential and incidental
229 losses such as lost profits. Such compensation shall not exceed an
230 amount approved by the office within the certificate of need unless the
231 commissioner determines it is reasonable or cost-effective to
232 compensate the excess amount. Notwithstanding any provision of this
233 subsection, no compensation shall be provided to an owner of a
234 certificate of need whose ability to implement the certificate of need is
235 contingent on the outcome of a legal action taken against the owner
236 until the owner obtains a final decision in his favor. An owner
237 aggrieved by the amount of compensation determined by the
238 commissioner may request a hearing in accordance with the provisions
239 of sections 17b-61 and 17b-104. The commissioner may so compensate
240 an owner of a certificate of need for nursing home beds who
241 volunteers to relinquish such a certificate, provided the request for
242 compensation is received by the commissioner prior to July 15, 1993.
243 The commissioner shall notify such an owner as to whether he will be
244 compensated within forty-five days from receipt of notice of voluntary
245 relinquishment or forty-five days of June 29, 1993, whichever is later.]

246 Sec. 2. Subdivisions (2) and (3) of subsection (b) of section 19a-639
247 of the 2008 supplement to the general statutes are repealed and the
248 following is substituted in lieu thereof (*Effective July 1, 2008*):

249 (2) An applicant, prior to submitting a certificate of need
250 application, shall submit a request, in writing, for application forms
251 and instructions to the office. The request shall be known as a letter of
252 intent. A letter of intent shall conform to the letter of intent
253 requirements of subdivision (4) of subsection (a) of section 19a-638, as
254 amended by this act. No certificate of need application will be
255 considered submitted to the office unless a current letter of intent,
256 specific to the proposal and in compliance with this subsection, is on
257 file with the office for [at least] not less than sixty days. A current letter
258 of intent is a letter of intent that has been on file at the office no more
259 than one hundred twenty days, except that an applicant may request a
260 one-time extension of a letter of intent of [up to] not more than an
261 additional thirty days for a maximum total of [up to] not more than
262 one hundred fifty days if, prior to the expiration of the current letter of
263 intent, the office receives a written request to so extend the letter of
264 intent's current status. The extension request shall fully explain why an
265 extension is requested. The office shall accept or reject the extension
266 request not later than [five business] seven days from the date the
267 office receives the extension request and shall so notify the applicant.
268 Upon a showing by such facility or institution that the need for such
269 capital program is of an emergency nature, in that the capital
270 expenditure is necessary to maintain continued access to the health
271 care services provided by the facility or institution, or to comply with
272 any federal, state or local health, fire, building or life safety code, the
273 commissioner may waive the letter of intent requirement, provided
274 such request shall be submitted [at least ten business] not less than
275 fourteen days before the proposed initiation date of the project. The
276 commissioner shall grant, modify or deny such request not later than
277 ninety days or not later than [ten business] fourteen days, as the case
278 may be, after receipt of such request, except as provided for in this
279 section. Upon the request of the applicant, the review period may be
280 extended for an additional fifteen days if the office has requested
281 additional information subsequent to the commencement of the review
282 period. The commissioner may extend the review period for a

283 maximum of thirty days if the applicant has not filed, in a timely
284 manner, information deemed necessary by the office. Failure of the
285 office to act upon such request within such review period shall be
286 deemed approval of such request. The ninety-day review period,
287 pursuant to this section, for an application filed by a hospital, as
288 defined in section 19a-490 of the 2008 supplement to the general
289 statutes, and licensed as a short-term acute care general hospital or a
290 children's hospital by the Department of Public Health or an affiliate of
291 such a hospital or any combination thereof, shall not apply if, in the
292 certificate of need application or request, the hospital or applicant
293 projects either (A) that, for the first three years of operation taken
294 together, the total impact of the proposal on the operating budget of
295 the hospital or an affiliate or any combination thereof will exceed one
296 per cent of the actual operating expenses of the hospital for the most
297 recently completed fiscal year as filed with the office, or (B) that the
298 total capital expenditure for the project will exceed fifteen million
299 dollars. If the office determines that an application is not subject to the
300 ninety-day review period pursuant to this subsection, it shall remain
301 so excluded for the entire period of that application, even if the
302 application or circumstances change and the application no longer
303 meets the stated terms of the exclusion. The office shall adopt
304 regulations, in accordance with chapter 54, to establish an expedited
305 hearing process to be used to review requests by any facility or
306 institution for approval of a capital expenditure to establish an energy
307 conservation program or to comply with requirements of any federal,
308 state or local health, fire, building or life safety code or final court
309 order. The office shall adopt regulations in accordance with the
310 provisions of chapter 54 to provide for the waiver of a hearing for any
311 part of a request by a facility or institution for a capital expenditure,
312 provided such facility or institution and the office agree upon such
313 waiver.

314 (3) The office shall comply with the public notice provisions of
315 subdivision (4) of subsection (a) of section 19a-638, as amended by this
316 act, and shall hold a public hearing with respect to any complete

317 certificate of need application filed under this section, if: (A) The
318 proposal has associated total capital expenditures or total capital costs
319 that exceed twenty million dollars for land, building or nonclinical
320 equipment acquisition, new building construction or building
321 renovation; (B) the proposal has associated total capital expenditures
322 per unit or total capital costs per unit that exceed three million dollars
323 for the purchase, lease or donation acceptance of major medical
324 equipment; (C) the proposal is for the purchase, lease or donation
325 acceptance of equipment utilizing technology that is new or being
326 introduced into the state, including scanning equipment,
327 cineangiography equipment, a linear accelerator or other similar
328 equipment; or (D) three individuals or an individual representing an
329 entity comprised of five or more people submit a request, in writing,
330 that a public hearing be held on the proposal and such request is
331 received by the office not later than twenty-one [calendar] days after
332 the office deems the certificate of need application complete. At least
333 two weeks' notice of such public hearing shall be given to the
334 applicant, in writing, and to the public by publication in a newspaper
335 having a substantial circulation in the area served by the applicant. At
336 the discretion of the office, such hearing shall be held in Hartford or in
337 the area so served or to be served.

338 Sec. 3. Section 19a-639e of the general statutes is repealed and the
339 following is substituted in lieu thereof (*Effective July 1, 2008*):

340 Notwithstanding the provisions of sections 19a-486 to 19a-486h,
341 inclusive, section 19a-638, as amended by this act, 19a-639 of the 2008
342 supplement to the general statutes, as amended by this act, or any
343 other provision of this chapter, the Office of Health Care Access may
344 refuse to accept as filed or submitted a letter of intent or a certificate of
345 need application from any person or health care facility or institution
346 that failed to submit any required data or information, or has filed any
347 required data or information that is incomplete or not filed in a timely
348 fashion. Prior to any refusal and accompanying moratorium under the
349 provisions of this section, the Commissioner of Health Care Access

350 shall notify the person or health care facility or institution, in writing,
351 and such notice shall identify the data or information that was not
352 received and the data or information that is incomplete in any respect.
353 Such person or health care facility or institution shall have [fifteen
354 business] twenty-one days from the date of mailing the notice to
355 provide the commissioner with the required data or information. Such
356 refusal and related moratorium on accepting a letter of intent or a
357 certificate of need application may remain in effect, at the discretion of
358 the Commissioner of Health Care Access, until the office determines
359 that all required data or information has been submitted. The
360 commissioner shall have [fifteen business] twenty-one days to notify
361 the person or health care facility or institution submitting the data and
362 information whether or not the letter of intent or certificate of need
363 application is refused. Nothing in this section shall preclude or limit
364 the office from taking any other action authorized by law concerning
365 late, incomplete or inaccurate data submission in addition to such a
366 refusal and accompanying moratorium.

367 Sec. 4. Subsection (b) of section 19a-681 of the general statutes is
368 repealed and the following is substituted in lieu thereof (*Effective July*
369 *1, 2008*):

370 (b) If the billing detail by line item on a patient bill does not agree
371 with the detailed schedule of charges on file with the office for the date
372 of service specified on the bill, the hospital shall be subject to a civil
373 penalty of five hundred dollars per occurrence payable to the state
374 [within ten business] not later than fourteen days after the date of
375 notification. The penalty shall be imposed in accordance with
376 subsections (b) to (e), inclusive, of section 19a-653. The office may issue
377 an order requiring such hospital, [within ten business] not later than
378 fourteen days after the date of notification of an overcharge to a
379 patient, to adjust the bill to be consistent with the schedule of charges
380 on file with the office for the date of service specified on the patient
381 bill.

382 Sec. 5. Subsection (b) of section 17b-351 of the general statutes is
383 repealed and the following is substituted in lieu thereof (*Effective July*
384 *1, 2008*):

385 (b) The General Assembly finds evidence of insufficient need for all
386 the nursing home beds permitted pursuant to subsection (a) of this
387 section, but not licensed by the Department of Public Health and finds
388 allowing unnecessary beds to be licensed will result in severely
389 damaging economic consequences to the state and to consumers. An
390 addition of beds initiated pursuant to this section shall be licensed no
391 later than June 9, 1993. A facility which has initiated the addition of
392 beds but has not obtained licensure of such beds, may, no later than
393 July 15, 1993, apply to the Office of Health Care Access for
394 authorization to proceed with completion of the additional beds and
395 application for licensure, provided (A) plans for the additional beds
396 have been approved by the Department of Public Health pursuant to
397 section 19-13-D-8t(v)(4) of the Public Health Code no later than June 1,
398 1993, and (B) twenty-five per cent of estimated project costs have been
399 expended no later than June 9, 1993, provided project costs may not
400 exceed thirty-one thousand two hundred eleven dollars per bed. The
401 office shall issue a decision on such application within forty-five days
402 of receipt of documentation necessary to determine expended project
403 costs. Evidence of project costs expended shall be submitted in the
404 form of a report prepared by a certified public accountant having no
405 affiliation with the owner of the facility or the developer of the project.
406 The owner of a facility for which completion of additional beds is not
407 so authorized may apply to the Commissioner of Social Services for
408 compensation on or after June 29, 1993, but no later than September 1,
409 1993, provided plans for the additional beds have been approved by
410 the Department of Public Health no later than June 1, 1993. Such
411 compensation shall be limited to actual verifiable losses which directly
412 result from the failure to gain authorization pursuant to this subsection
413 and which cannot be otherwise recouped through the mitigating
414 efforts of the owner, excluding consequential and incidental losses
415 such as lost profits. In no event may such compensation exceed project

416 costs. An owner aggrieved by the amount of compensation determined
417 by the commissioner may request a hearing in accordance with the
418 provisions of sections 17b-60 and 17b-61. [This subsection shall not
419 apply to any addition of beds pursuant to this section which is part of
420 a construction project that also includes an addition of beds authorized
421 pursuant to subdivision (4) of subsection (f) of section 19a-638.]

422 Sec. 6. (*Effective July 1, 2008*) Section 19a-611 of the general statutes is
423 repealed.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2008</i>	19a-638
Sec. 2	<i>July 1, 2008</i>	19a-639(b)(2) and (3)
Sec. 3	<i>July 1, 2008</i>	19a-639e
Sec. 4	<i>July 1, 2008</i>	19a-681(b)
Sec. 5	<i>July 1, 2008</i>	17b-351(b)
Sec. 6	<i>July 1, 2008</i>	Repealer section

Statement of Purpose:

To amend the general statutes pertaining to the Office of Health Care Access by making technical revisions and repealing obsolete provisions.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]