



Community Providers Association
Caring for Connecticut.

March 12, 2010

To: Public Health Committee

From: Terry Edelstein, President/CEO

Re: **Testimony: H. B. No. 5447 AAC the Certificate of Need Process**

Please accept these comments regarding the proposed changes in the CON process.

DCF Exemption

During the 2009 session we worked with your Committee to amend the CON statutes to exempt DCF-contracted services, with some exceptions, from the CON process. The proposed modifications to the CON process seem to eliminate that provision entirely. Lines 662-664 delete reference to the DCF exemption (for a program licensed or funded by DCF), but the revamped text at lines 1144 - 1155 does not reference DCF, while it does reference DMHAS and substance abuse treatment facilities.

We recommend that you amend this legislation to explicitly include DCF licensed or funded services in the exemption so as to make the exemption clear. Without this language, the 2009 legislation may be challenged and is certainly unclear.

Recommended language in **CAPS/BOLD**:

1144 Notwithstanding the provisions of [sections 19a-638 and 19a-639]
1145 section 19a-638, as amended by this act, (1) a community agency
1146 operating a program in a state institution or facility, (2) a nonprofit
1147 community agency operating a program, identified as closing a service
1148 delivery system gap in the state-wide service delivery plan, in a state
1149 institution or facility, and receiving funds from the Department of
1150 Mental Health and Addiction Services, **(3) A PROGRAM LICENSED OR FUNDED
BY THE DEPARTMENT OF CHILDREN AND FAMILIES, PROVIDED SUCH
PROGRAM IS NOT A PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY, AS
DEFINED IN 42 CFR 483.35OR [(3)]** (4) a nonprofit substance

CCPA

35 Cold Springs Rd., Suite 522, Rocky Hill, CT 06067-3165
(P)860-257-7909 • (F)860-257-7777
www.ccpa-inc.org

1151 abuse treatment facility, identified as closing a service delivery system
1152 gap in the state-wide service delivery plan and receiving funds from
1153 the department, shall not be required to obtain a certificate of need
1154 from the Office of Health Care Access division of the Department of
1155 Public Health.

Mental Health and Substance Abuse Removed from Definition of Healthcare Facility

We have concerns about the removal of mental health and substance abuse from the definition of healthcare facility except if those services are provided through affiliation with a healthcare facility (lines 396-397).

The current CON statutes require mental health and substance abuse services except those now referenced in lines 1144 -1155 above to go through the CON process. OHCA determines the *need* for these services apart from a need ascertained by DMHAS or DCF.

Without continuing this CON requirement there is the likelihood of an influx of mental health and substance abuse treatment agencies setting up shop in Connecticut without the conclusion that they fill a service delivery need as determined by OHCA or DMHAS or DCF.

Furthermore, this removal from CON purview allows for the proliferation of both for profit and nonprofit mental health and substance abuse treatment providers, whereas the DMHAS and substance abuse exemptions limit service provision to nonprofit providers if a need is determined. The exemption has long applied to nonprofit service provision.

We recommend that you continue to include mental health and substance abuse providers not affiliated with a health care facility in the definition of healthcare provider as has been the long established practice.

Recommended language: (delete lines 396-397)
396 [(13) Mental health and substance abuse providers not affiliated with
397 a health care facility;]

Thank you for considering these revisions to the proposed legislation.