



General Assembly

January Session, 2011

**Raised Bill No. 6343**

LCO No. 3188

\*          HB06343APP          051711          \*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

**AN ACT CONCERNING COOPERATIVE HEALTH CARE ARRANGEMENTS.**

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

1 Section 1. (NEW) (*Effective October 1, 2011*) (a) As used in this  
2 section:

3 (1) "Cooperative arrangement" means an agreement among two or  
4 more health care providers for the purpose of sharing, allocating or  
5 referring patients, personnel, instructional programs, support services  
6 or facilities or medical, diagnostic or laboratory facilities or  
7 procedures, or negotiating fees, prices or rates with managed care  
8 organizations and includes, but is not limited to, a merger, acquisition  
9 or joint venture of two or more health care providers, including, but  
10 not limited to, physician practice groups;

11 (2) "Health care provider" means: (A) A physician licensed under  
12 chapter 370 of the general statutes, (B) a chiropractor licensed under  
13 chapter 372 of the general statutes, (C) a podiatrist licensed under  
14 chapter 375 of the general statutes, (D) a natureopath licensed under  
15 chapter 373 of the general statutes, or (E) an optometrist licensed under

16 chapter 380 of the general statutes;

17 (3) "Certificate of public advantage" means a certificate issued by the  
18 Attorney General, that authorizes health care providers that are parties  
19 to a cooperative arrangement to engage in conduct that could tend to  
20 lessen competition in a relevant health care market, upon a showing  
21 that such cooperative arrangement meets the criteria set forth in  
22 subdivision (2) of subsection (c) of this section; and

23 (4) "Managed care organization" has the meaning set forth in section  
24 38a-478 of the general statutes.

25 (b) The Attorney General may issue a certificate of public advantage  
26 in accordance with this section. Any two or more health care providers  
27 may apply to the Attorney General for a certificate of public advantage  
28 to authorize a cooperative arrangement. The application shall include  
29 (1) the name of the applicant or applicants, (2) a description of the  
30 nature and scope of the cooperative arrangement, (3) a description of  
31 any consideration passing to a party under the agreement, (4) evidence  
32 in support of the criteria set forth in subdivision (2) of subsection (c) of  
33 this section, and (5) such other information as the Attorney General  
34 may require. Each application shall be accompanied by a fee of one  
35 hundred dollars. Any information of a proprietary nature submitted in  
36 such application that meets the standards set forth in subdivision (5),  
37 (8) or (10) of subsection (b) of section 1-210 of the general statutes shall  
38 be confidential and exempt from public disclosure.

39 (c) (1) The Attorney General shall review each application submitted  
40 pursuant to subsection (b) of this section and, not later than ninety  
41 days after receipt of such application, issue a written decision  
42 approving or denying the application. The decision shall set forth the  
43 Attorney General's findings with respect to the benefits and  
44 disadvantages described in subdivision (2) of this subsection and a  
45 conclusion as to whether the benefits outweigh the disadvantages to  
46 the residents of this state. The Attorney General may conduct a  
47 hearing, after giving notice to all interested parties, to obtain

48 information necessary in making such decision.

49 (2) In reviewing applications under this section, the Attorney  
50 General shall consider the provisions of chapter 368z of the general  
51 statutes concerning long-range health planning that the Attorney  
52 General deems relevant to the application for a certificate of public  
53 advantage, and any benefits of such cooperative arrangement,  
54 including, but not limited to: (A) Enhancement of the quality of health  
55 services to consumers; (B) gains in cost efficiency of providing health  
56 services; (C) improvement in utilization of and access to health services  
57 and equipment; and (D) avoidance of duplication of health care  
58 resources. The Attorney General shall not approve an application for a  
59 certificate of public advantage unless the Attorney General finds that  
60 the benefits of the proposed cooperative arrangement outweigh the  
61 disadvantages, including, but not limited to: (i) The potential reduction  
62 in competition; (ii) the adverse impact on quality, access or price of  
63 health care services to consumers; and (iii) the availability of  
64 arrangements that achieve the same benefits with less restriction on  
65 competition.

66 (3) Conduct by health care providers in furtherance of a cooperative  
67 arrangement that has received a certificate of public advantage shall  
68 not be subject to the provisions of chapter 624 of the general statutes,  
69 except that the Attorney General may utilize the powers set forth in  
70 section 35-42 of the general statutes when the Attorney General has  
71 reason to believe that the approved cooperative arrangement is not  
72 performing or providing services as described in the application or in  
73 the annual progress report. This section shall not be construed to  
74 require a health care provider to obtain a certificate of public  
75 advantage in order to enter into a cooperative arrangement, and,  
76 absent a certificate of public advantage, the legality of such cooperative  
77 arrangement shall be determined by applicable antitrust law.

78 (4) Health care providers in a cooperative arrangement that has  
79 received a certificate of public advantage pursuant to this section shall  
80 submit an annual progress report to the Attorney General on a form

81 prescribed by the Attorney General. The report shall be accompanied  
82 by a fee of one hundred dollars.

83 (5) The Attorney General shall actively supervise any cooperative  
84 arrangement authorized pursuant to this section to determine whether  
85 the conduct undertaken by the health care providers in furtherance of  
86 the cooperative arrangement should continue to be authorized. The  
87 Attorney General shall review such conduct through annual progress  
88 reports submitted by the health care providers in a cooperative  
89 arrangement in accordance with subdivision (4) of this subsection to  
90 evaluate whether the conduct is consistent with the application and  
91 whether the benefits continue to outweigh the disadvantages. If the  
92 Attorney General has reason to believe that the likely benefits no  
93 longer outweigh the disadvantages, the Attorney General shall notify  
94 the holder of the certificate of public advantage and hold a hearing to  
95 determine whether such certificate should be modified or revoked.  
96 Such modification or revocation shall take effect ninety days from the  
97 mailing of notice of a final decision by the Attorney General. The  
98 Attorney General shall not modify or revoke a certificate of public  
99 advantage more than three years after the initial issuance of such  
100 certificate.

101 (d) Any health care provider denied a certificate of public advantage  
102 by the Attorney General pursuant to this section and any holder of a  
103 certificate of public advantage that has been modified or revoked by  
104 the Attorney General pursuant to subdivision (5) of subsection (c) of  
105 this section may appeal therefrom as if such denial, modification or  
106 revocation were a contested case within the meaning of chapter 54 of  
107 the general statutes.

108 (e) No managed care organization shall refuse to negotiate in good  
109 faith with parties to a cooperative arrangement authorized by the  
110 Attorney General. Any managed care organization that violates this  
111 section shall be subject to a civil penalty of not more than twenty-five  
112 thousand dollars per day for each violation. The Attorney General may  
113 institute proceedings to enforce the provisions of this section in the

114 superior court for the judicial district of Hartford.

115 (f) A violation of subsection (e) of this section shall be deemed an  
116 unfair or deceptive trade practice under chapter 735a of the general  
117 statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	New section

**JUD**      *Joint Favorable*

**APP**      *Joint Favorable*