



House of Representatives

File No. 876

General Assembly

January Session, 2011

(Reprint of File No. 94)

House Bill No. 5048
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
June 2, 2011

**AN ACT REQUIRING CERTIFICATE OF NEED APPROVAL FOR THE
TERMINATION OF INPATIENT AND OUTPATIENT SERVICES BY A
HOSPITAL.**

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

1 Section 1. Section 19a-638 of the general statutes, as amended by
2 section 1 of public act 11-10, is repealed and the following is
3 substituted in lieu thereof (*Effective from passage*):

4 (a) A certificate of need issued by the office shall be required for:

5 (1) The establishment of a new health care facility;

6 (2) A transfer of ownership of a health care facility;

7 (3) The establishment of a free-standing emergency department;

8 (4) The termination of inpatient or outpatient services offered by a
9 hospital, including, but not limited to, the termination by a short-term
10 acute care general hospital or children's hospital of inpatient and
11 outpatient mental health and substance abuse services;

12 (5) The establishment of an outpatient surgical facility, as defined in
13 section 19a-493b, or as established by a short-term acute care general
14 hospital;

15 (6) The termination of surgical services by an outpatient surgical
16 facility, as defined in section 19a-493b, or a facility that provides
17 outpatient surgical services as part of the outpatient surgery
18 department of a short-term acute care general hospital, provided
19 termination of outpatient surgical services due to (A) insufficient
20 patient volume, or (B) the termination of any subspecialty surgical
21 service, shall not require certificate of need approval;

22 ~~[(6)]~~ (7) The termination of an emergency department by a short-
23 term acute care general hospital;

24 ~~[(7)]~~ (8) The establishment of cardiac services, including inpatient
25 and outpatient cardiac catheterization, interventional cardiology and
26 cardiovascular surgery;

27 ~~[(8)]~~ (9) The acquisition of computed tomography scanners,
28 magnetic resonance imaging scanners, positron emission tomography
29 scanners or positron emission tomography-computed tomography
30 scanners, by any person, physician, provider, short-term acute care
31 general hospital or children's hospital, except as provided for in
32 subdivision ~~[(23)]~~ (22) of subsection (b) of this section;

33 ~~[(9)]~~ (10) The acquisition of nonhospital based linear accelerators;

34 ~~[(10)]~~ (11) An increase in the licensed bed capacity of a health care
35 facility;

36 ~~[(11)]~~ (12) The acquisition of equipment utilizing technology that
37 has not previously been utilized in the state; and

38 ~~[(12)]~~ (13) An increase of two or more operating rooms within any
39 three-year period, commencing on and after October 1, 2010, by an
40 outpatient surgical facility, as defined in section 19a-493b, or by a
41 short-term acute care general hospital.

- 42 (b) A certificate of need shall not be required for:
- 43 (1) Health care facilities owned and operated by the federal
44 government;
- 45 (2) The establishment of offices by a licensed private practitioner,
46 whether for individual or group practice, except when a certificate of
47 need is required in accordance with the requirements of section 19a-
48 493b or [subdivisions (8) and (9)] subdivision (9) or (10) of subsection
49 (a) of this section;
- 50 (3) A health care facility operated by a religious group that
51 exclusively relies upon spiritual means through prayer for healing;
- 52 (4) Residential care homes, nursing homes and rest homes, as
53 defined in subsection (c) of section 19a-490;
- 54 (5) An assisted living services agency, as defined in section 19a-490;
- 55 (6) Home health agencies, as defined in section 19a-490;
- 56 (7) Hospice services, as described in section 19a-122b;
- 57 (8) Outpatient rehabilitation facilities;
- 58 (9) Outpatient chronic dialysis services;
- 59 (10) Transplant services;
- 60 (11) Free clinics, as defined in section 19a-630;
- 61 (12) School-based health centers, community health centers, as
62 defined in section 19a-490a, not-for-profit outpatient clinics licensed in
63 accordance with the provisions of chapter 368v and federally qualified
64 health centers;
- 65 (13) A program licensed or funded by the Department of Children
66 and Families, provided such program is not a psychiatric residential
67 treatment facility;

68 (14) Any nonprofit facility, institution or provider that has a contract
69 with, or is certified or licensed to provide a service for, a state agency
70 or department for a service that would otherwise require a certificate
71 of need. The provisions of this subdivision shall not apply to a short-
72 term acute care general hospital or children's hospital, or a hospital or
73 other facility or institution operated by the state that provides services
74 that are eligible for reimbursement under Title XVIII or XIX of the
75 federal Social Security Act, 42 USC 301, as amended;

76 (15) A health care facility operated by a nonprofit educational
77 institution exclusively for students, faculty and staff of such institution
78 and their dependents;

79 (16) An outpatient clinic or program operated exclusively by or
80 contracted to be operated exclusively by a municipality, municipal
81 agency, municipal board of education or a health district, as described
82 in section 19a-241;

83 (17) A residential facility for [the mentally retarded] persons with
84 intellectual disability licensed pursuant to section 17a-227 and certified
85 to participate in the Title XIX Medicaid program as an intermediate
86 care facility for the mentally retarded;

87 (18) Replacement of existing imaging equipment if such equipment
88 was acquired through certificate of need approval or a certificate of
89 need determination, provided a health care facility, provider,
90 physician or person notifies the office of the date on which the
91 equipment is replaced and the disposition of the replaced equipment;

92 (19) Acquisition of cone-beam dental imaging equipment that is to
93 be used exclusively by a dentist licensed pursuant to chapter 379;

94 [(20) The termination of inpatient or outpatient services offered by a
95 hospital, except as provided in subdivision (4) of subsection (a) of this
96 section and section 19a-639e;]

97 [(21)] (20) The partial or total elimination of services provided by an

98 outpatient surgical facility, as defined in section 19a-493b, except as
99 provided in subdivision (6) of subsection (a) of this section and section
100 19a-639e, as amended by this act;

101 [(22)] (21) The termination of services for which the Department of
102 Public Health has requested the facility to relinquish its license; or

103 [(23)] (22) Acquisition of any equipment by any person that is to be
104 used exclusively for scientific research that is not conducted on
105 humans.

106 (c) (1) Any person, health care facility or institution that is unsure
107 whether a certificate of need is required under this section, or (2) any
108 health care facility that proposes to relocate pursuant to section 19a-
109 639c shall send a letter to the office that describes the project and
110 requests that the office make a determination as to whether a certificate
111 of need is required. In the case of a relocation of a health care facility,
112 the letter shall include information described in section 19a-639c. A
113 person, health care facility or institution making such request shall
114 provide the office with any information the office requests as part of its
115 determination process.

116 (d) The Commissioner of Public Health may implement policies and
117 procedures necessary to administer the provisions of this section while
118 in the process of adopting such policies and procedures as regulation,
119 provided the commissioner holds a public hearing prior to
120 implementing the policies and procedures and prints notice of intent to
121 adopt regulations in the Connecticut Law Journal not later than twenty
122 days after the date of implementation. Policies and procedures
123 implemented pursuant to this section shall be valid until the time final
124 regulations are adopted. Final regulations shall be adopted by
125 December 31, 2011.

126 Sec. 2. Subsection (a) of section 19a-639e of the general statutes is
127 repealed and the following is substituted in lieu thereof (*Effective from*
128 *passage*):

129 (a) [Any] Unless otherwise required to file a certificate of need
130 application pursuant to the provisions of subsection (a) of section 19a-
131 638, as amended by this act, any health care facility that proposes to
132 terminate a service that was authorized pursuant to a certificate of
133 need issued under this chapter shall file a modification request with
134 the office not later than sixty days prior to the proposed date of the
135 termination of the service. The office may request additional
136 information from the health care facility as necessary to process the
137 modification request. In addition, the office shall hold a public hearing
138 on any request from a health care facility to terminate a service
139 pursuant to this section if three or more individuals or an individual
140 representing an entity with five or more people submits a request, in
141 writing, that a public hearing be held on the health care facility's
142 proposal to terminate a service.

143 Sec. 3. Subsection (c) of section 19a-634 of the general statutes is
144 repealed and the following is substituted in lieu thereof (*Effective from*
145 *passage*):

146 (c) For purposes of conducting the state-wide health care facility
147 utilization study and preparing the state-wide health care facilities and
148 services plan, the office shall establish and maintain an inventory of all
149 health care facilities, the equipment identified in subdivisions [(8)] (9)
150 and [(9)] (10) of subsection (a) of section 19a-638, as amended by this
151 act, and services in the state, including health care facilities that are
152 exempt from certificate of need requirements under subsection (b) of
153 section 19a-638, as amended by this act. The office shall develop an
154 inventory questionnaire to obtain the following information: (1) The
155 name and location of the facility; (2) the type of facility; (3) the hours of
156 operation; (4) the type of services provided at that location; and (5) the
157 total number of clients, treatments, patient visits, procedures
158 performed or scans performed in a calendar year. The inventory shall
159 be completed biennially by health care facilities and providers and
160 such health care facilities and providers shall not be required to
161 provide patient specific or financial data.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	19a-638
Sec. 2	<i>from passage</i>	19a-639e(a)
Sec. 3	<i>from passage</i>	19a-634(c)

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Public Health, Dept.	GF - Potential Revenue Gain	Indeterminate	Indeterminate

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill results in a potential indeterminate General Fund revenue gain as it adds a requirement to the underlying bill that any outpatient surgical facility seeking to terminate services currently offered must file a certificate of need application with the Office of Health Care Access, a division of the Department of Public Health. It is unknown how many terminations of such services will be sought annually, and, as such, the potential revenue gain is indeterminate. CGS Sec. 19a-639a establishes a \$500 CON application fee for termination of certain hospital services.

House "A" struck lines 1 to 91 of the underlying bill and replaced them with language resulting in the impact indentified above.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of terminations of such services annually.

OLR Bill Analysis**HB 5048 (as amended by House "A")******AN ACT REQUIRING CERTIFICATE OF NEED APPROVAL FOR THE TERMINATION OF INPATIENT AND OUTPATIENT SERVICES BY A HOSPITAL.*****SUMMARY:**

This bill requires any hospital seeking to terminate current inpatient or outpatient services to file a certificate of need (CON) application with the Office of Health Care Access (OHCA) division of the Department of Public Health (DPH).

It also requires, under certain conditions, a CON for termination of surgical services by an outpatient surgical facility, or a facility providing such services as part of the outpatient surgery department of a short-term acute care general hospital.

Generally, existing law requires CON authorization when a health care facility proposes: (1) establishing new facilities or services, (2) changing ownership, (3) purchasing or acquiring certain equipment, or (4) terminating certain services.

The bill also makes minor, conforming, and technical changes.

*House Amendment "A" adds the CON requirement for termination of surgical services by an outpatient surgical facility or a facility providing such services as part of a hospital's outpatient surgery department. It also makes minor, technical, and conforming changes.

EFFECTIVE DATE: Upon passage

CERTIFICATE OF NEED

Termination of Services By a Hospital

Under current law, a CON is not required for termination of inpatient or outpatient services offered by a hospital, but the facility proposing to terminate such services must file a modification request with the OHCA division if the proposed terminated service was originally authorized under a CON. This request must be filed at least 60 days before the proposed termination request. OHCA must hold a public hearing on the request if three or more individuals or an individual representing an entity with five or more people submits a written request for a hearing.

Under the bill, a hospital seeking to terminate any inpatient or outpatient service must file a CON application, but would not have to file the modification request.

Under existing law, unchanged by the bill, termination of inpatient and outpatient mental health and substance abuse services by a short-term acute general hospital or children's hospital does require a CON authorization.

Termination of Outpatient Surgical Services

Under current law, a CON is not required for the partial or total elimination of services provided by an outpatient surgical facility. But the requirements for termination of services cited above for hospitals involving a modification request apply.

The bill instead requires a CON for termination of surgical services by (1) an outpatient surgical facility or (2) a facility providing outpatient surgical services as part of the outpatient department of a short-term acute care hospital. But termination of such services does not require a CON under the bill if termination is due to (1) insufficient patient volume or (2) termination of any subspecialty surgical service.

BACKGROUND***Activities Requiring a CON***

By law, the following activities require a CON:

1. establishment of a new health care facility;
2. a transfer of ownership of a health care facility;
3. establishment of a free-standing emergency department;
4. termination by a short-term acute care general hospital or children's hospital of inpatient and outpatient mental health and substance abuse services;
5. establishment of an outpatient surgical facility by a short-term acute care general hospital or by an entity other than a hospital;
6. termination of an emergency department by a short-term acute care general hospital;
7. establishment of cardiac services, including inpatient and outpatient cardiac catheterization, interventional cardiology, and cardiovascular surgery;
8. acquisition of computed tomography scanners, magnetic resonance imaging scanners, positron emission tomography scanners, or positron emission tomography-computed tomography scanners, by any person, physician, provider, short-term acute care general hospital or children's hospital;
9. acquisition of nonhospital based linear accelerators;
10. an increase in the licensed bed capacity of a health care facility;
11. acquisition of equipment utilizing technology that has not previously been utilized in the state; and
12. an increase of two or more operating rooms within any three-year period, starting on and after October 1, 2010, by an outpatient surgical facility or a short-term acute care general hospital.

Related Act

PA 11-10 exempts from CON review the acquisition of any equipment by a person used exclusively for scientific research on non-humans.

COMMITTEE ACTION

Public Health Committee

Joint Favorable

Yea 17 Nay 9 (03/07/2011)