



General Assembly

February Session, 2014

Raised Bill No. 5571

LCO No. 2576



Referred to Committee on PUBLIC HEALTH

Introduced by:
(PH)

***AN ACT CONCERNING CERTIFICATE OF NEED REQUIREMENTS,
HOSPITAL CONVERSIONS AND MEDICAL FOUNDATIONS.***

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

1 Section 1. Subsection (a) of section 19a-638 of the 2014 supplement
2 to the general statutes is repealed and the following is substituted in
3 lieu thereof (*Effective October 1, 2014*):

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 freestanding 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 (7) The termination of an emergency department by a short-term
23 acute care general hospital;

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

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

33 (10) The acquisition of nonhospital based linear accelerators;

34 (11) An increase in the licensed bed capacity of a health care facility;

35 (12) The acquisition of equipment utilizing technology that has not
36 previously been utilized in the state;

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

41 (14) The termination of inpatient or outpatient services offered by a
42 hospital or other facility or institution operated by the state that
43 provides services that are eligible for reimbursement under Title XVIII
44 or XIX of the federal Social Security Act, 42 USC 301, as amended; and

45 (15) The termination of inpatient or outpatient reproductive services
46 offered by a hospital or other facility or institution operated in the
47 state.

48 Sec. 2. Subsection (a) of section 19a-486c of the 2014 supplement to
49 the general statutes is repealed and the following is substituted in lieu
50 thereof (*Effective from passage*):

51 (a) The Attorney General shall deny an application as not in the
52 public interest if the Attorney General determines that one or more of
53 the following conditions exist: (1) The transaction is prohibited by
54 Connecticut statutory or common law governing nonprofit entities,
55 trusts or charities; (2) the nonprofit hospital failed to exercise due
56 diligence in (A) deciding to transfer, (B) selecting the purchaser, (C)
57 obtaining a fairness evaluation from an independent person expert in
58 such agreements, or (D) negotiating the terms and conditions of the
59 transfer; (3) the nonprofit hospital failed to disclose any conflict of
60 interest, including, but not limited to, conflicts of interest pertaining to
61 board members, officers, key employees and experts of the hospital,
62 the purchaser or any other party to the transaction; (4) the nonprofit
63 hospital will not receive fair market value for its assets, which, for
64 purposes of this subsection, means the most likely price that the assets
65 would bring in a sale in a competitive and open market under all
66 conditions requisite to a fair sale, with the buyer and seller each acting
67 prudently, knowledgeably and in their own best interest, and with a
68 reasonable time being allowed for exposure in the open market; (5) the
69 fair market value of the assets has been manipulated by any person in
70 a manner that causes the value of the assets to decrease; (6) the
71 financing of the transaction by the nonprofit hospital will place the
72 nonprofit hospital's assets at an unreasonable risk; (7) any

73 management contract contemplated under the transaction is not for
74 reasonable fair value; (8) a sum equal to the fair market value of the
75 nonprofit hospital's assets (A) is not being transferred to one or more
76 persons to be selected by the superior court for the judicial district
77 where the nonprofit hospital is located who are not affiliated through
78 corporate structure, governance or membership with either the
79 nonprofit hospital or the purchaser, unless the nonprofit hospital
80 continues to operate on a nonprofit basis after the transaction and such
81 sum is transferred to the nonprofit hospital to provide health care
82 services, and (B) is not being used for one of the following purposes: (i)
83 For appropriate charitable health care purposes consistent with the
84 nonprofit hospital's original purpose, (ii) for the support and
85 promotion of health care generally in the affected community, or (iii)
86 with respect to any assets held by the nonprofit hospital that are
87 subject to a use restriction imposed by a donor, for a purpose
88 consistent with the intent of said donor; or (9) the nonprofit hospital or
89 the purchaser has failed to provide the Attorney General with
90 information and data sufficient to evaluate the proposed agreement
91 adequately, provided the Attorney General has notified the nonprofit
92 hospital or the purchaser of the inadequacy of the information or data
93 and has provided a reasonable opportunity to remedy such
94 inadequacy. In considering the fair market value of assets of a
95 nonprofit hospital under this subsection, the Attorney General shall
96 consider the moneys that the nonprofit hospital would have paid to
97 the municipality if not for the payment in lieu of taxes pursuant to
98 section 12-20a.

99 Sec. 3. Section 33-182aa of the general statutes is repealed and the
100 following is substituted in lieu thereof (*Effective October 1, 2014*):

101 As used in this chapter:

102 (1) "Certificate of incorporation" means a certificate of incorporation,
103 as defined in section 33-1002, or any predecessor statute thereto;

104 (2) "Hospital" means a nonstock corporation organized under
105 chapter 602, or any predecessor statute thereto, or by special act and
106 licensed as a hospital pursuant to chapter 368v;

107 (3) "Health system" means a nonstock corporation organized under
108 chapter 602, or any predecessor statute thereto, consisting of a parent
109 corporation of one or more hospitals licensed pursuant to chapter
110 368v, and affiliated through governance, membership or some other
111 means;

112 (4) "Medical school" means a school of allopathic medicine leading
113 to the M.D. degree, accredited by the Liaison Committee on Medical
114 Education, and affiliated through governance with or part of a
115 university that is either incorporated in this state or established
116 pursuant to any provision of the general statutes and accredited by the
117 New England Association of Schools and Colleges Commission on
118 Institutions of Higher Education; and

119 (5) "Provider" means a physician licensed under chapter 370, [a
120 chiropractor licensed under chapter 372, an optometrist licensed under
121 chapter 380 or a podiatrist licensed under chapter 375.]

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	19a-638(a)
Sec. 2	<i>from passage</i>	19a-486c(a)
Sec. 3	<i>October 1, 2014</i>	33-182aa

Statement of Purpose:

To require a certificate of need for the termination of reproductive services, to require the Attorney General, in making a determination on a hospital conversion, to consider certain assets of a nonprofit hospital and to change the definition of provider for purposes of provisions concerning medical foundations.

[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.]