



General Assembly

Amendment

February Session, 2014

LCO No. 5665

SB0003505665SD0

Offered by:

SEN. LOONEY, 11th Dist.
SEN. GERRATANA, 6th Dist.
SEN. FASANO, 34th Dist.

To: Subst. Senate Bill No. 35

File No. 419

Cal. No. 286

"AN ACT CONCERNING NOTICE OF ACQUISITIONS, JOINT VENTURES AND AFFILIATIONS OF GROUP MEDICAL PRACTICES."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2014*) (a) As used in this
4 section:

5 (1) "Captive professional entity" means a professional corporation,
6 limited liability company or other entity formed to render professional
7 services in which a beneficial owner is a physician employed by or
8 otherwise designated by a hospital or hospital system;

9 (2) "Hospital" has the same meaning as provided in section 19a-490
10 of the general statutes;

11 (3) "Hospital system" means: (A) A parent corporation of one or
12 more hospitals and any entity affiliated with such parent corporation
13 through ownership, governance, membership or other means, or (B) a

14 hospital and any entity affiliated with such hospital through
15 ownership, governance, membership or other means;

16 (4) "Health care provider" has the same meaning as provided in
17 section 19a-17b of the general statutes;

18 (5) "Medical foundation" means a medical foundation formed under
19 chapter 594b of the general statutes;

20 (6) "Physician" has the same meaning as provided in section 20-13a
21 of the general statutes;

22 (7) "Person" has the same meaning as provided in section 35-25 of
23 the general statutes;

24 (8) "Professional corporation" has the same meaning as provided in
25 section 33-182a of the general statutes;

26 (9) "Group practice" means two or more physicians, legally
27 organized in a partnership, professional corporation, limited liability
28 company formed to render professional services, medical foundation,
29 not-for-profit corporation, faculty practice plan or other similar entity
30 (A) in which each physician who is a member of the group provides
31 substantially the full range of services that the physician routinely
32 provides, including, but not limited to, medical care, consultation,
33 diagnosis or treatment, through the joint use of shared office space,
34 facilities, equipment or personnel; (B) for which substantially all of the
35 services of the physicians who are members of the group are provided
36 through the group and are billed in the name of the group practice and
37 amounts so received are treated as receipts of the group; or (C) in
38 which the overhead expenses of, and the income from, the group are
39 distributed in accordance with methods previously determined by
40 members of the group. An entity that otherwise meets the definition of
41 group practice under this section shall be considered a group practice
42 although its shareholders, partners or owners of the group practice
43 include single-physician professional corporations, limited liability
44 companies formed to render professional services or other entities in

45 which beneficial owners are individual physicians; and

46 (10) "Primary service area" means the smallest number of zip codes
47 from which the group practice draws at least seventy-five per cent of
48 its patients.

49 (b) At the same time that any person conducting business in this
50 state that files merger, acquisition or any other information regarding
51 market concentration with the Federal Trade Commission or the
52 United States Department of Justice, in compliance with the Hart-
53 Scott-Rodino Antitrust Improvements Act, 15 USC 18a, where a
54 hospital, hospital system or other health care provider is a party to the
55 merger or acquisition that is the subject of such information, such
56 person shall provide written notification to the Attorney General of
57 such filing and, upon the request of the Attorney General, provide a
58 copy of such merger, acquisition or other information.

59 (c) Except for acquisitions described in subdivision (4) of this
60 subsection, not less than ninety days prior to the effective date of any
61 transaction that results in a material change to the business or
62 corporate structure of a group practice, the parties to the transaction
63 shall submit written notice to the Attorney General of such material
64 change. For an acquisition of an insolvent group practice, as described
65 in subdivision (4) of this subsection, the parties to the transaction shall
66 submit written notice to the Attorney General not less than thirty days
67 prior to the effective date of the transaction. For purposes of this
68 subsection, a material change to the business or corporate structure of
69 a group practice includes: (1) The merger, consolidation or other
70 affiliation of a group practice with (A) another group practice that
71 results in a group practice comprised of eight or more physicians, or
72 (B) a hospital, hospital system, captive professional entity, medical
73 foundation or other entity organized or controlled by such hospital or
74 hospital system; (2) the acquisition of all or substantially all of (A) the
75 properties and assets of a group practice, or (B) the capital stock,
76 membership interests or other equity interests of a group practice by (i)
77 another group practice that results in a group practice comprised of

78 eight or more physicians, or (ii) a hospital, hospital system, captive
79 professional entity, medical foundation or other entity organized or
80 controlled by such hospital or hospital system; (3) the employment of
81 all or substantially all of the physicians of a group practice by (A)
82 another group practice that results in a group practice comprised of
83 eight or more physicians, or (B) a hospital, hospital system, captive
84 professional entity, medical foundation or other entity organized by,
85 controlled by or otherwise affiliated with such hospital or hospital
86 system; (4) the acquisition of one or more insolvent group practices by
87 (A) another group practice that results in a group practice comprised
88 of eight or more physicians, or (B) a hospital, hospital system, captive
89 professional entity, medical foundation or other entity organized by,
90 controlled by or otherwise affiliated with such hospital or hospital
91 system; and (5) the formation of a partnership, joint venture, common
92 entity, accountable care organization or parent corporation for the
93 purpose of contracting or providing services on behalf of one or more
94 group practices.

95 (d) The written notice required under subsection (c) of this section
96 shall identify each party to the transaction and describe the material
97 change to the business or corporate structure of the group practice,
98 including: (1) A description of the nature of the proposed relationship
99 among the parties to the proposed transaction; (2) the names and
100 specialties of each physician that is a member of the group practice
101 that is the subject of the proposed transaction and who will practice
102 medicine with the resulting group practice, hospital, hospital system,
103 captive professional entity, medical foundation or other entity
104 organized by, controlled by, or otherwise affiliated with such hospital
105 or hospital system following the effective date of the transaction; (3)
106 the names of the business entities that are to provide services following
107 the effective date of the transaction; (4) the address for each location
108 where such services are to be provided; (5) a description of the services
109 to be provided at each such location; and (6) the primary service area
110 to be served by each such location.

111 (e) Written information submitted to the Attorney General pursuant
112 to subsections (b) to (d), inclusive, of this section shall be maintained
113 and used by the Attorney General in the same manner as provided in
114 section 35-42 of the general statutes.

115 (f) Not later than December 31, 2014, and annually thereafter, each
116 hospital and hospital system shall file with the Attorney General and
117 the Commissioner of Public Health a written report describing the
118 activities of the group practices owned or affiliated with such hospital
119 or hospital system. Such report shall include, for each such group
120 practice: (1) A description of the nature of the relationship between the
121 hospital or hospital system and the group practice; (2) the names and
122 specialties of each physician practicing medicine with the group
123 practice; (3) the names of the business entities that provide services as
124 part of the group practice and the address for each location where such
125 services are provided; (4) a description of the services provided at each
126 such location; and (5) the primary service area served by each such
127 location.

128 (g) Not later than December 31, 2014, and annually thereafter, each
129 group practice comprised of thirty or more physicians that is not the
130 subject of a report filed under subsection (f) of this section shall file
131 with the Attorney General and the Commissioner of Public Health a
132 written report concerning the group practice. Such report shall include,
133 for each such group practice: (1) The names and specialties of each
134 physician practicing medicine with the group practice; (2) the names of
135 the business entities that provide services as part of the group practice
136 and the address for each location where such services are provided; (3)
137 a description of the services provided at each such location; and (4) the
138 primary service area served by each such location.

139 Sec. 2. Section 33-182aa of the general statutes is repealed and the
140 following is substituted in lieu thereof (*Effective from passage*):

141 As used in this chapter:

142 (1) "Affiliate" means any person that directly or indirectly through
143 one or more intermediaries, controls or is controlled by or is under
144 common control with another person. A person is deemed controlled
145 by another person if the other person, or one of that other person's
146 affiliates, officers, agents or management employees, acts as a general
147 partner or manager of the person in question;

148 (2) "Certificate of incorporation" means a certificate of incorporation,
149 as defined in section 33-1002, or any predecessor statute thereto;

150 [(2)] (3) "Hospital" means [a nonstock corporation organized under
151 chapter 602, or any predecessor statute thereto, or by special act and
152 licensed as] a hospital licensed pursuant to chapter 368v;

153 [(3)] (4) "Health system" means [a nonstock corporation organized
154 under chapter 602, or any predecessor statute thereto,] a business
155 entity consisting of a parent corporation of one or more hospitals
156 licensed pursuant to chapter 368v, and affiliated through governance,
157 membership or some other means;

158 [(4)] (5) "Medical school" means a school of allopathic medicine
159 leading to the M.D. degree, accredited by the Liaison Committee on
160 Medical Education, and affiliated through governance with or part of a
161 university that is either incorporated in this state or established
162 pursuant to any provision of the general statutes and accredited by the
163 New England Association of Schools and Colleges Commission on
164 Institutions of Higher Education; and

165 [(5)] (6) "Provider" means a physician licensed under chapter 370, a
166 chiropractor licensed under chapter 372, an optometrist licensed under
167 chapter 380 or a podiatrist licensed under chapter 375.

168 Sec. 3. Section 33-182bb of the general statutes is repealed and the
169 following is substituted in lieu thereof (*Effective from passage*):

170 (a) (1) Any hospital, health system or medical school may organize
171 and become a member of a medical foundation under the provisions of

172 chapter 602 for the purpose of practicing medicine and providing
173 health care services as a medical foundation through employees or
174 agents of such medical foundation who are [licensed pursuant to
175 section 20-9 and through other] providers. Providers who are
176 employees or agents of a medical foundation organized by a nonprofit
177 hospital or nonprofit health system shall work primarily for such
178 nonprofit hospital or nonprofit health system. Providers who are
179 employees or agents of a medical foundation organized by a for-profit
180 hospital or for-profit health system shall work primarily for such for-
181 profit hospital or for-profit health system. Such medical foundation
182 shall be governed by a board of directors, which shall consist of an
183 equal or greater number of providers than nonprovider employees of
184 the members, in addition to such other directors as may be elected by
185 the members. The authority to appoint or elect board members shall
186 not be granted to any person or entity that is not a member of the
187 medical foundation.

188 (2) Notwithstanding the provisions of this subsection, (A) no
189 employee or representative of a for-profit hospital, for-profit health
190 system, for-profit medical school or any entity that owns or controls a
191 for-profit hospital, for-profit health system or for-profit medical school
192 may serve on the board of directors of a medical foundation organized
193 by a nonprofit hospital, nonprofit health system or nonprofit medical
194 school; (B) no employee or representative of a nonprofit hospital,
195 nonprofit health system, nonprofit medical school or any entity that
196 owns or controls a nonprofit hospital, nonprofit health system or
197 nonprofit medical school may serve on the board of directors of a
198 medical foundation organized by a for-profit hospital, for-profit health
199 system or for-profit medical school; and (C) no person shall serve on
200 the board of directors of a medical foundation organized by a for-profit
201 hospital, for-profit health system or for-profit medical school and, at
202 the same time, serve on the board of directors of a medical foundation
203 organized by a nonprofit hospital, nonprofit health system or
204 nonprofit medical school.

205 (b) Any medical foundation organized on or after July 1, 2009, shall
206 file a copy of its certificate of incorporation and any amendments to its
207 certificate of incorporation with the Office of Health Care Access
208 division of the Department of Public Health not later than ten business
209 days after the medical foundation files such certificate of incorporation
210 or amendment with the Secretary of the State pursuant to chapter 602.

211 (c) Any medical group clinic corporation formed under chapter 594
212 of the general statutes, revision of 1958, revised to 1995, which amends
213 its certificate of incorporation pursuant to subsection (a) of section 33-
214 182cc, shall file with the Office of Health Care Access division of the
215 Department of Public Health a copy of its certificate of incorporation
216 and any amendments to its certificate of incorporation, including any
217 amendment to its certificate of incorporation that complies with the
218 requirements of subsection (a) of section 33-182cc, not later than ten
219 business days after the medical foundation files its certificate of
220 incorporation or any amendments to its certificate of incorporation
221 with the Secretary of the State.

222 (d) Any medical foundation, regardless of when organized, shall file
223 notice with the Office of Health Care Access division of the
224 Department of Public Health and the Secretary of the State of its
225 liquidation, termination, dissolution or cessation of operations not later
226 than ten business days after a vote by its board of directors or
227 members to take such action. [Not later than ten business days after
228 receiving a written request from the office, a] A medical foundation
229 shall, annually, provide the office with a statement of its mission, [and]
230 a description of the services it provides, [and] a description of any
231 significant change in its services during the preceding year and other
232 financial information as reported on the medical foundation's most
233 recently filed Internal Revenue Service return of organization exempt
234 from income tax form, or any replacement form adopted by the
235 Internal Revenue Service, or, if such medical foundation is not
236 required to file such form, information substantially similar to that
237 required by such form. The Office of Health Care Access shall make

238 such forms or information available to members of the public and
239 accessible on said office's Internet web site.

240 (e) A medical foundation shall not operate for profit and may
241 operate at such locations as are designated by its members.

242 (f) A hospital, health system or medical school may organize and be
243 a member of no more than one medical foundation.

244 Sec. 4. Section 33-182dd of the general statutes is repealed and the
245 following is substituted in lieu thereof (*Effective from passage*):

246 (a) No medical foundation organized under this chapter shall
247 engage in any business other than the rendering of health care services
248 for which it was specifically incorporated, except that nothing in this
249 chapter or in any other provision of law applicable to corporations
250 shall be interpreted to prohibit such medical foundation from
251 investing its funds in real estate, mortgages, stocks, bonds or any other
252 type of investments, or from owning real or personal property incident
253 to the rendering of professional services.

254 (b) No medical foundation organized by a nonprofit hospital,
255 nonprofit health system or nonprofit medical school may be affiliated
256 with, partners with, a party to a joint venture with, or otherwise enter
257 into a similar revenue-generating business relationship with (1) a
258 medical foundation organized by a for-profit hospital, for-profit health
259 system or for-profit medical school, (2) a for-profit hospital, (3) a for-
260 profit health system, (4) a for-profit medical school, or (5) any entity
261 that owns or controls a for-profit hospital, a for-profit health system or
262 a for-profit medical school. Nothing in this subsection shall be
263 construed as prohibiting affiliations or collaborations for the purposes
264 of providing clinical services, related administrative support services
265 or a risk-sharing arrangement.

266 Sec. 5. (NEW) (*Effective October 1, 2014*) Upon admitting a patient to
267 a hospital, hospital personnel shall promptly ask the patient whether
268 the patient desires for his or her physician to be notified of the hospital

269 admission. If the patient so desires, hospital personnel shall make
270 reasonable efforts to notify the physician designated by the patient of
271 the patient's hospital admission as soon as practicable, but not later
272 than twelve hours after the patient's request. For purposes of this
273 section, "hospital" shall have the same meaning as provided in section
274 19a-490 of the general statutes; and "physician" means a person
275 licensed under the provisions of chapter 370 of the general statutes.

276 Sec. 6. Section 19a-630 of the general statutes is repealed and the
277 following is substituted in lieu thereof (*Effective July 1, 2014*):

278 As used in this chapter, unless the context otherwise requires:

279 (1) "Affiliate" means a person, entity or organization controlling,
280 controlled by or under common control with another person, entity or
281 organization. Affiliate does not include a medical foundation
282 organized under chapter 594b.

283 (2) "Applicant" means any person or health care facility that applies
284 for a certificate of need pursuant to section 19a-639a, as amended by
285 this act.

286 (3) "Bed capacity" means the total number of inpatient beds in a
287 facility licensed by the Department of Public Health under sections
288 19a-490 to 19a-503, inclusive.

289 (4) "Capital expenditure" means an expenditure that under
290 generally accepted accounting principles consistently applied is not
291 properly chargeable as an expense of operation or maintenance and
292 includes acquisition by purchase, transfer, lease or comparable
293 arrangement, or through donation, if the expenditure would have been
294 considered a capital expenditure had the acquisition been by purchase.

295 (5) "Certificate of need" means a certificate issued by the office.

296 (6) "Days" means calendar days.

297 (7) "Deputy commissioner" means the deputy commissioner of
298 Public Health who oversees the Office of Health Care Access division
299 of the Department of Public Health.

300 (8) "Commissioner" means the Commissioner of Public Health.

301 (9) "Free clinic" means a private, nonprofit community-based
302 organization that provides medical, dental, pharmaceutical or mental
303 health services at reduced cost or no cost to low-income, uninsured
304 and underinsured individuals.

305 (10) "Group practice" means eight or more full-time equivalent
306 physicians, legally organized in a partnership, professional
307 corporation, limited liability company formed to render professional
308 services, medical foundation, not-for-profit corporation, faculty
309 practice plan or other similar entity (A) in which each physician who is
310 a member of the group provides substantially the full range of services
311 that the physician routinely provides, including, but not limited to,
312 medical care, consultation, diagnosis or treatment, through the joint
313 use of shared office space, facilities, equipment or personnel; (B) for
314 which substantially all of the services of the physicians who are
315 members of the group are provided through the group and are billed
316 in the name of the group practice and amounts so received are treated
317 as receipts of the group; or (C) in which the overhead expenses of, and
318 the income from, the group are distributed in accordance with
319 methods previously determined by members of the group. An entity
320 that otherwise meets the definition of group practice under this section
321 shall be considered a group practice although its shareholders,
322 partners or owners of the group practice include single-physician
323 professional corporations, limited liability companies formed to render
324 professional services or other entities in which beneficial owners are
325 individual physicians.

326 [(10)] (11) "Health care facility" means (A) hospitals licensed by the
327 Department of Public Health under chapter 368v; (B) specialty
328 hospitals; (C) freestanding emergency departments; (D) outpatient

329 surgical facilities, as defined in section 19a-493b and licensed under
330 chapter 368v; (E) a hospital or other facility or institution operated by
331 the state that provides services that are eligible for reimbursement
332 under Title XVIII or XIX of the federal Social Security Act, 42 USC 301,
333 as amended; (F) a central service facility; (G) mental health facilities;
334 (H) substance abuse treatment facilities; and (I) any other facility
335 requiring certificate of need review pursuant to subsection (a) of
336 section 19a-638, as amended by this act. "Health care facility" includes
337 any parent company, subsidiary, affiliate or joint venture, or any
338 combination thereof, of any such facility.

339 [(11)] (12) "Nonhospital based" means located at a site other than the
340 main campus of the hospital.

341 [(12)] (13) "Office" means the Office of Health Care Access division
342 within the Department of Public Health.

343 [(13)] (14) "Person" means any individual, partnership, corporation,
344 limited liability company, association, governmental subdivision,
345 agency or public or private organization of any character, but does not
346 include the agency conducting the proceeding.

347 (15) "Physician" has the same meaning as provided in section 20-
348 13a.

349 [(14)] (16) "Transfer of ownership" means a transfer that impacts or
350 changes the governance or controlling body of a health care facility or
351 institution, including, but not limited to, all affiliations, mergers or any
352 sale or transfer of net assets of a health care facility.

353 Sec. 7. Section 19a-638 of the 2014 supplement to the general statutes
354 is repealed and the following is substituted in lieu thereof (*Effective July*
355 *1, 2014*):

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

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

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

359 (3) A transfer of ownership of a group practice to any entity other
360 than a physician or group of physicians, except when the parties have
361 signed a sale agreement to transfer such ownership on or before
362 September 1, 2014;

363 ~~[(3)]~~ (4) The establishment of a freestanding emergency department;

364 ~~[(4)]~~ (5) The termination of inpatient or outpatient services offered
365 by a hospital, including, but not limited to, the termination by a short-
366 term acute care general hospital or children's hospital of inpatient and
367 outpatient mental health and substance abuse services;

368 ~~[(5)]~~ (6) The establishment of an outpatient surgical facility, as
369 defined in section 19a-493b, or as established by a short-term acute
370 care general hospital;

371 ~~[(6)]~~ (7) The termination of surgical services by an outpatient
372 surgical facility, as defined in section 19a-493b, or a facility that
373 provides outpatient surgical services as part of the outpatient surgery
374 department of a short-term acute care general hospital, provided
375 termination of outpatient surgical services due to (A) insufficient
376 patient volume, or (B) the termination of any subspecialty surgical
377 service, shall not require certificate of need approval;

378 ~~[(7)]~~ (8) The termination of an emergency department by a short-
379 term acute care general hospital;

380 ~~[(8)]~~ (9) The establishment of cardiac services, including inpatient
381 and outpatient cardiac catheterization, interventional cardiology and
382 cardiovascular surgery;

383 ~~[(9)]~~ (10) The acquisition of computed tomography scanners,
384 magnetic resonance imaging scanners, positron emission tomography
385 scanners or positron emission tomography-computed tomography
386 scanners, by any person, physician, provider, short-term acute care

387 general hospital or children's hospital, except as provided for in
388 subdivision (22) of subsection (b) of this section;

389 ~~[(10)]~~ (11) The acquisition of nonhospital based linear accelerators;

390 ~~[(11)]~~ (12) An increase in the licensed bed capacity of a health care
391 facility;

392 ~~[(12)]~~ (13) The acquisition of equipment utilizing technology that
393 has not previously been utilized in the state;

394 ~~[(13)]~~ (14) An increase of two or more operating rooms within any
395 three-year period, commencing on and after October 1, 2010, by an
396 outpatient surgical facility, as defined in section 19a-493b, or by a
397 short-term acute care general hospital; and

398 ~~[(14)]~~ (15) The termination of inpatient or outpatient services offered
399 by a hospital or other facility or institution operated by the state that
400 provides services that are eligible for reimbursement under Title XVIII
401 or XIX of the federal Social Security Act, 42 USC 301, as amended.

402 (b) A certificate of need shall not be required for:

403 (1) Health care facilities owned and operated by the federal
404 government;

405 (2) The establishment of offices by a licensed private practitioner,
406 whether for individual or group practice, except when a certificate of
407 need is required in accordance with the requirements of section 19a-
408 493b or subdivision ~~[(9) or (10)]~~ (3), (10) or (11) of subsection (a) of this
409 section;

410 (3) A health care facility operated by a religious group that
411 exclusively relies upon spiritual means through prayer for healing;

412 (4) Residential care homes, nursing homes and rest homes, as
413 defined in subsection (c) of section 19a-490;

- 414 (5) An assisted living services agency, as defined in section 19a-490;
- 415 (6) Home health agencies, as defined in section 19a-490;
- 416 (7) Hospice services, as described in section 19a-122b;
- 417 (8) Outpatient rehabilitation facilities;
- 418 (9) Outpatient chronic dialysis services;
- 419 (10) Transplant services;
- 420 (11) Free clinics, as defined in section 19a-630, as amended by this
421 act;
- 422 (12) School-based health centers, community health centers, as
423 defined in section 19a-490a, not-for-profit outpatient clinics licensed in
424 accordance with the provisions of chapter 368v and federally qualified
425 health centers;
- 426 (13) A program licensed or funded by the Department of Children
427 and Families, provided such program is not a psychiatric residential
428 treatment facility;
- 429 (14) Any nonprofit facility, institution or provider that has a contract
430 with, or is certified or licensed to provide a service for, a state agency
431 or department for a service that would otherwise require a certificate
432 of need. The provisions of this subdivision shall not apply to a short-
433 term acute care general hospital or children's hospital, or a hospital or
434 other facility or institution operated by the state that provides services
435 that are eligible for reimbursement under Title XVIII or XIX of the
436 federal Social Security Act, 42 USC 301, as amended;
- 437 (15) A health care facility operated by a nonprofit educational
438 institution exclusively for students, faculty and staff of such institution
439 and their dependents;
- 440 (16) An outpatient clinic or program operated exclusively by or

441 contracted to be operated exclusively by a municipality, municipal
442 agency, municipal board of education or a health district, as described
443 in section 19a-241;

444 (17) A residential facility for persons with intellectual disability
445 licensed pursuant to section 17a-227 and certified to participate in the
446 Title XIX Medicaid program as an intermediate care facility for
447 individuals with intellectual disabilities;

448 (18) Replacement of existing imaging equipment if such equipment
449 was acquired through certificate of need approval or a certificate of
450 need determination, provided a health care facility, provider,
451 physician or person notifies the office of the date on which the
452 equipment is replaced and the disposition of the replaced equipment;

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

455 (20) The partial or total elimination of services provided by an
456 outpatient surgical facility, as defined in section 19a-493b, except as
457 provided in subdivision (6) of subsection (a) of this section and section
458 19a-639e;

459 (21) The termination of services for which the Department of Public
460 Health has requested the facility to relinquish its license; or

461 (22) Acquisition of any equipment by any person that is to be used
462 exclusively for scientific research that is not conducted on humans.

463 (c) (1) Any person, health care facility or institution that is unsure
464 whether a certificate of need is required under this section, or (2) any
465 health care facility that proposes to relocate pursuant to section 19a-
466 639c shall send a letter to the office that describes the project and
467 requests that the office make a determination as to whether a certificate
468 of need is required. In the case of a relocation of a health care facility,
469 the letter shall include information described in section 19a-639c. A
470 person, health care facility or institution making such request shall

471 provide the office with any information the office requests as part of its
472 determination process.

473 (d) The Commissioner of Public Health may implement policies and
474 procedures necessary to administer the provisions of this section while
475 in the process of adopting such policies and procedures as regulation,
476 provided the commissioner holds a public hearing prior to
477 implementing the policies and procedures and prints notice of intent to
478 adopt regulations in the Connecticut Law Journal not later than twenty
479 days after the date of implementation. Policies and procedures
480 implemented pursuant to this section shall be valid until the time final
481 regulations are adopted. Final regulations shall be adopted by
482 December 31, 2011.

483 Sec. 8. Section 19a-639 of the 2014 supplement to the general statutes
484 is repealed and the following is substituted in lieu thereof (*Effective July*
485 *1, 2014*):

486 (a) In any deliberations involving a certificate of need application
487 filed pursuant to section 19a-638, as amended by this act, the office
488 shall take into consideration and make written findings concerning
489 each of the following guidelines and principles:

490 (1) Whether the proposed project is consistent with any applicable
491 policies and standards adopted in regulations by the Department of
492 Public Health;

493 (2) The relationship of the proposed project to the state-wide health
494 care facilities and services plan;

495 (3) Whether there is a clear public need for the health care facility or
496 services proposed by the applicant;

497 (4) Whether the applicant has satisfactorily demonstrated how the
498 proposal will impact the financial strength of the health care system in
499 the state or that the proposal is financially feasible for the applicant;

500 (5) Whether the applicant has satisfactorily demonstrated how the
501 proposal will improve quality, accessibility and cost effectiveness of
502 health care delivery in the region, including, but not limited to, (A)
503 provision of or any change in the access to services for Medicaid
504 recipients and indigent persons, and (B) the impact upon the cost
505 effectiveness of providing access to services provided under the
506 Medicaid program;

507 (6) The applicant's past and proposed provision of health care
508 services to relevant patient populations and payer mix, including, but
509 not limited to, access to services by Medicaid recipients and indigent
510 persons;

511 (7) Whether the applicant has satisfactorily identified the population
512 to be served by the proposed project and satisfactorily demonstrated
513 that the identified population has a need for the proposed services;

514 (8) The utilization of existing health care facilities and health care
515 services in the service area of the applicant;

516 (9) Whether the applicant has satisfactorily demonstrated that the
517 proposed project shall not result in an unnecessary duplication of
518 existing or approved health care services or facilities; [and]

519 (10) Whether an applicant, who has failed to provide or reduced
520 access to services by Medicaid recipients or indigent persons, has
521 demonstrated good cause for doing so, which shall not be
522 demonstrated solely on the basis of differences in reimbursement rates
523 between Medicaid and other health care payers; [.]

524 (11) Whether the applicant has satisfactorily demonstrated that the
525 proposal will not negatively impact the diversity of health care
526 providers and patient choice in the geographic region; and

527 (12) Whether the applicant has satisfactorily demonstrated that any
528 consolidation resulting from the proposal will not adversely affect
529 health care costs or accessibility to care.

530 (b) In deliberations as described in subsection (a) of this section,
531 there shall be a presumption in favor of approving the certificate of
532 need application for a transfer of ownership of a group practice, as
533 described in subdivision (3) of subsection (a) of section 19a-638, as
534 amended by this act, when an offer was made in response to a request
535 for proposal or similar voluntary offer for sale.

536 [(b)] (c) The office, as it deems necessary, may revise or supplement
537 the guidelines and principles through regulation prescribed in
538 subsection (a) of this section.

539 Sec. 9. Section 19a-639a of the general statutes is repealed and the
540 following is substituted in lieu thereof (*Effective July 1, 2014*):

541 (a) An application for a certificate of need shall be filed with the
542 office in accordance with the provisions of this section and any
543 regulations adopted by the Department of Public Health. The
544 application shall address the guidelines and principles set forth in (1)
545 subsection (a) of section 19a-639, as amended by this act, and (2)
546 regulations adopted by the department. The applicant shall include
547 with the application a nonrefundable application fee of five hundred
548 dollars.

549 (b) Prior to the filing of a certificate of need application, the
550 applicant shall publish notice that an application is to be submitted to
551 the office in a newspaper having a substantial circulation in the area
552 where the project is to be located. Such notice shall (1) be published (A)
553 not later than twenty days prior to the date of filing of the certificate of
554 need application, and (B) for not less than three consecutive days, and
555 (2) contain a brief description of the nature of the project and the street
556 address where the project is to be located. An applicant shall file the
557 certificate of need application with the office not later than ninety days
558 after publishing notice of the application in accordance with the
559 provisions of this subsection. The office shall not accept the applicant's
560 certificate of need application for filing unless the application is
561 accompanied by the application fee prescribed in subsection (a) of this

562 section and proof of compliance with the publication requirements
563 prescribed in this subsection.

564 (c) Not later than five business days after receipt of a properly filed
565 certificate of need application, the office shall publish notice of the
566 application on its web site. Not later than thirty days after the date of
567 filing of the application, the office may request such additional
568 information as the office determines necessary to complete the
569 application. The applicant shall, not later than sixty days after the date
570 of the office's request, submit the requested information to the office. If
571 an applicant fails to submit the requested information to the office
572 within the sixty-day period, the office shall consider the application to
573 have been withdrawn.

574 (d) Upon determining that an application is complete, the office
575 shall provide notice of this determination to the applicant and to the
576 public in accordance with regulations adopted by the department. In
577 addition, the office shall post such notice on its web site. The date on
578 which the office posts such notice on its web site shall begin the review
579 period. Except as provided in this subsection, (1) the review period for
580 a completed application shall be ninety days from the date on which
581 the office posts such notice on its web site; and (2) the office shall issue
582 a decision on a completed application prior to the expiration of the
583 ninety-day review period. The review period for a completed
584 application that involves a transfer of a group practice, as described in
585 subdivision (3) of subsection (a) of section 19a-638, as amended by this
586 act, when the offer was made in response to a request for proposal or
587 similar voluntary offer for sale shall be sixty days from the date on
588 which the office posts notice on its web site. Upon request or for good
589 cause shown, the office may extend the review period for a period of
590 time not to exceed sixty days. If the review period is extended, the
591 office shall issue a decision on the completed application prior to the
592 expiration of the extended review period. If the office holds a public
593 hearing concerning a completed application in accordance with
594 subsection (e) or (f) of this section, the office shall issue a decision on

595 the completed application not later than sixty days after the date the
596 office closes the public hearing record.

597 (e) [The] Except as provided in this subsection, the office shall hold
598 a public hearing on a properly filed and completed certificate of need
599 application if three or more individuals or an individual representing
600 an entity with five or more people submits a request, in writing, that a
601 public hearing be held on the application. For a properly filed and
602 completed certificate of need application involving a transfer of
603 ownership of a group practice, as described in subdivision (3) of
604 subsection (a) of section 19a-638, as amended by this act, when an offer
605 was made in response to a request for proposal or similar voluntary
606 offer for sale, a public hearing shall be held if twenty-five or more
607 individuals or an individual representing twenty-five or more people
608 submits a request, in writing, that a public hearing be held on the
609 application. Any request for a public hearing shall be made to the
610 office not later than thirty days after the date the office determines the
611 application to be complete.

612 (f) The office may hold a public hearing with respect to any
613 certificate of need application submitted under this chapter. The office
614 shall provide not less than two weeks' advance notice to the applicant,
615 in writing, and to the public by publication in a newspaper having a
616 substantial circulation in the area served by the health care facility or
617 provider. In conducting its activities under this chapter, the office may
618 hold hearing on applications of a similar nature at the same time.

619 (g) The Commissioner of Public Health may implement policies and
620 procedures necessary to administer the provisions of this section while
621 in the process of adopting such policies and procedures as regulation,
622 provided the commissioner holds a public hearing prior to
623 implementing the policies and procedures and prints notice of intent to
624 adopt regulations in the Connecticut Law Journal not later than twenty
625 days after the date of implementation. Policies and procedures
626 implemented pursuant to this section shall be valid until the time final
627 regulations are adopted. Final regulations shall be adopted by

628 December 31, 2011.

629 Sec. 10. Section 19a-486a of the general statutes is repealed and the
630 following is substituted in lieu thereof (*Effective from passage*):

631 (a) No nonprofit hospital shall enter into an agreement to transfer a
632 material amount of its assets or operations or a change in control of
633 operations to a person that is organized or operated for profit without
634 first having received approval of the agreement by the commissioner
635 and the Attorney General pursuant to sections 19a-486 to 19a-486h,
636 inclusive, and pursuant to the Attorney General's authority under
637 section 3-125. Any such agreement without the approval required by
638 sections 19a-486 to 19a-486h, inclusive, shall be void.

639 (b) Prior to any transaction described in subsection (a) of this
640 section, the nonprofit hospital and the purchaser shall concurrently
641 submit a certificate of need determination letter as described in
642 subsection (c) of section 19a-638, as amended by this act, to the
643 commissioner and the Attorney General by serving it on them by
644 certified mail, return receipt requested, or delivering it by hand to each
645 office. The certificate of need determination letter shall contain: (1) The
646 name and address of the nonprofit hospital; (2) the name and address
647 of the purchaser; (3) a brief description of the terms of the proposed
648 agreement; and (4) the estimated capital expenditure, cost or value
649 associated with the proposed agreement. The certificate of need
650 determination letter shall be subject to disclosure pursuant to section 1-
651 210.

652 (c) Not later than thirty days after receipt of the certificate of need
653 determination letter by the commissioner and the Attorney General,
654 the purchaser and the nonprofit hospital shall hold a hearing on the
655 contents of the certificate of need determination letter in the
656 municipality in which the new hospital is proposed to be located. The
657 nonprofit hospital shall provide not less than two weeks' advance
658 notice of the hearing to the public by publication in a newspaper
659 having a substantial circulation in the affected community for not less

660 than three consecutive days. Such notice shall contain substantially the
661 same information as in the certificate of need determination letter. The
662 purchaser and the nonprofit hospital shall record and transcribe the
663 hearing and make such recording or transcription available to the
664 commissioner, the Attorney General or members of the public upon
665 request.

666 [(c)] (d) The commissioner and the Attorney General shall review
667 the certificate of need determination letter. The Attorney General shall
668 determine whether the agreement requires approval pursuant to this
669 chapter. If such approval is required, the commissioner and the
670 Attorney General shall transmit to the purchaser and the nonprofit
671 hospital an application form for approval pursuant to this chapter,
672 unless the commissioner refuses to accept a filed or submitted
673 certificate of need determination letter. Such application form shall
674 require the following information: (1) The name and address of the
675 nonprofit hospital; (2) the name and address of the purchaser; (3) a
676 description of the terms of the proposed agreement; (4) copies of all
677 contracts, agreements and memoranda of understanding relating to
678 the proposed agreement; (5) a fairness evaluation by an independent
679 person who is an expert in such agreements, that includes an analysis
680 of each of the criteria set forth in section 19a-486c; (6) documentation
681 that the nonprofit hospital exercised the due diligence required by
682 subdivision (2) of subsection (a) of section 19a-486c, including
683 disclosure of the terms of any other offers to transfer assets or
684 operations or change control of operations received by the nonprofit
685 hospital and the reason for rejection of such offers; and (7) such other
686 information as the commissioner or the Attorney General deem
687 necessary to their review pursuant to the provisions of sections 19a-486
688 to 19a-486f, inclusive, and chapter 368z. The application shall be
689 subject to disclosure pursuant to section 1-210.

690 [(d)] (e) No later than sixty days after the date of mailing of the
691 application form, the nonprofit hospital and the purchaser shall
692 concurrently file an application with the commissioner and the

693 Attorney General containing all the required information. The
694 commissioner and the Attorney General shall review the application
695 and determine whether the application is complete. The commissioner
696 and the Attorney General shall, no later than twenty days after the
697 date of their receipt of the application, provide written notice to the
698 nonprofit hospital and the purchaser of any deficiencies in the
699 application. Such application shall not be deemed complete until such
700 deficiencies are corrected.

701 ~~[(e)]~~ (f) No later than twenty-five days after the date of their receipt
702 of the completed application under this section, the commissioner and
703 the Attorney General shall jointly publish a summary of such
704 agreement in a newspaper of general circulation where the nonprofit
705 hospital is located.

706 ~~[(f)]~~ (g) Any person may seek to intervene in the proceedings under
707 section 19a-486e, in the same manner as provided in section 4-177a.

708 Sec. 11. Section 19a-486b of the general statutes is repealed and the
709 following is substituted in lieu thereof (*Effective from passage*):

710 (a) Not later than one hundred twenty days after the date of receipt
711 of the completed application pursuant to subsection (d) of section 19a-
712 486a, as amended by this act, the Attorney General and the
713 commissioner shall approve the application, with or without
714 modification, or deny the application. The commissioner shall also
715 determine, in accordance with the provisions of chapter 368z, whether
716 to approve, with or without modification, or deny the application for a
717 certificate of need that is part of the completed application.
718 Notwithstanding the provisions of section 19a-639a, the commissioner
719 shall complete the decision on the application for a certificate of need
720 within the same time period as the completed application. Such one-
721 hundred-twenty-day period may be extended by agreement of the
722 Attorney General, the commissioner, the nonprofit hospital and the
723 purchaser. If the Attorney General initiates a proceeding to enforce a
724 subpoena pursuant to section 19a-486c or 19a-486d, as amended by this

725 act, the one-hundred-twenty-day period shall be tolled until the final
726 court decision on the last pending enforcement proceeding, including
727 any appeal or time for the filing of such appeal. Unless the one-
728 hundred-twenty-day period is extended pursuant to this section, if the
729 commissioner and Attorney General fail to take action on an
730 agreement prior to the one hundred twenty-first day after the date of
731 the filing of the completed application, the application shall be deemed
732 approved.

733 (b) The commissioner and the Attorney General may place any
734 conditions on the approval of an application that relate to the purposes
735 of sections 19a-486a to 19a-486h, inclusive, as amended by this act.

736 Sec. 12. Subsection (a) of section 19a-486d of the general statutes is
737 repealed and the following is substituted in lieu thereof (*Effective from*
738 *passage*):

739 (a) The commissioner shall deny an application filed pursuant to
740 subsection (d) of section 19a-486a, as amended by this act, unless the
741 commissioner finds that: (1) The affected community will be assured of
742 continued access to high quality and affordable health care after
743 accounting for any proposed change in current hospital staffing; (2) in
744 a situation where the asset or operation to be transferred provides or
745 has provided health care services to the uninsured or underinsured,
746 the purchaser has made a commitment to provide health care to the
747 uninsured and the underinsured; (3) in a situation where health care
748 providers or insurers will be offered the opportunity to invest or own
749 an interest in the purchaser or an entity related to the purchaser
750 safeguard procedures are in place to avoid a conflict of interest in
751 patient referral; and (4) certificate of need authorization is justified in
752 accordance with chapter 368z. The commissioner may contract with
753 any person, including, but not limited to, financial or actuarial experts
754 or consultants, or legal experts with the approval of the Attorney
755 General, to assist in reviewing the completed application. The
756 commissioner shall submit any bills for such contracts to the
757 purchaser. Such bills shall not exceed one hundred fifty thousand

758 dollars. The purchaser shall pay such bills no later than thirty days
759 after the date of receipt of such bills.

760 Sec. 13. (NEW) (*Effective from passage*) (a) No person or entity that
761 manages, owns, operates or conducts a business having a direct or
762 indirect financial interest in a physician's professional practice shall
763 substantially interfere with a physician's lawful and competent
764 practice of medicine, in accordance with chapter 370 of the general
765 statutes.

766 (b) No person other than a physician who is engaged in direct
767 clinical care or consultation with another physician in accordance with
768 the standards and the ethics of the medical profession shall
769 substantially interfere with a physician's lawful and competent
770 practice of medicine, in accordance with chapter 370 of the general
771 statutes.

772 (c) Notwithstanding the provisions of subsection (b) of this section,
773 the following shall not be prohibited: (1) An insurer establishing,
774 administering, or enforcing the provisions of a policy of accident and
775 health insurance doing business in accordance with the provisions of
776 title 38a of the general statutes; (2) a person adopting, implementing,
777 or enforcing utilization management standards related to payment for
778 a physician's services, provided (A) utilization management standards
779 adopted, implemented, and enforced by the payer have been approved
780 by a committee that consists of a greater number of physicians than
781 nonphysician members; and (B) the utilization management standards
782 do not preclude a physician from exercising independent professional
783 judgment on behalf of the physician's patients in a manner that is
784 independent of payment considerations; (3) a person developing and
785 implementing clinical practice standards that are intended to reduce
786 morbidity and mortality or improving quality outcomes or cost-
787 effectiveness or developing and implementing other medical or
788 surgical practice standards related to the standardization of effective
789 health care practices, provided (A) the practice standards and
790 recommendations have been approved by a physician or by a

791 committee that contains a greater number of physicians than
792 nonphysician members, and (B) the practice standards do not preclude
793 the physician from exercising independent professional judgment on
794 behalf of the physician's patients in a manner that is independent of
795 payment considerations; (4) a person requesting or recommending that
796 a patient obtain a second opinion from a physician; (5) a person
797 conducting peer review, quality evaluation, quality improvement, risk
798 management or similar activities designed to identify and address
799 practice deficiencies with health care providers, health care facilities or
800 the delivery of health care; (6) a person providing employment
801 supervision or adopting employment requirements that do not
802 interfere with the physician's ability to exercise independent
803 professional judgment on behalf of the physician's patients, provided
804 employment requirements that may not be considered to interfere with
805 an employed physician's exercise of independent professional
806 judgment include, but are not limited to, an employment requirement
807 that restricts the physician's access to patients with whom the
808 physician's employer does not have a contractual relationship, either
809 directly or through contracts with one or more third-party payers; (7) a
810 person providing benefit coverage information, giving advice or
811 expressing opinions to a patient or to a family member of a patient to
812 assist the patient or family member in making a decision about health
813 care that has been recommended by a physician; or (8) a person
814 engaging in any otherwise lawful conduct that does not substantially
815 interfere with the physician's ability to exercise independent
816 professional judgment on behalf of the physician's patients and that
817 does not constitute the practice of medicine, as defined in accordance
818 with chapter 370 of the general statutes.

819 (d) The Commissioner of Public Health shall enforce the provisions
820 of this section and may request the Attorney General to petition the
821 Superior Court for such order.

822 (e) Any person who violates any provision of this section shall be
823 assessed a civil penalty of not more than three thousand five hundred

824 dollars for each violation.

825 Sec. 14. (NEW) (*Effective July 1, 2014*) (a) Not later than thirty days
 826 after a transfer is approved pursuant to sections 19a-486a to 19a486h,
 827 inclusive, of the general statutes, as amended by this act, the purchaser
 828 shall establish an advisory board of trustees. Such advisory board shall
 829 be composed of the following members: (1) Not less than three
 830 members shall be elected public officials serving in the geographic area
 831 served by the hospital, or such elected public officials' designees; (2)
 832 not less than three members shall be members of the acquired
 833 hospital's medical staff; (3) not less than three members shall be
 834 appointed by the elected public officials, or the elected public officials'
 835 designees. The purchaser may appoint not more than two additional
 836 members.

837 (b) The purchaser shall meet with the advisory board not less than
 838 quarterly for a period of not less than five years. The advisory board
 839 shall advise the purchaser concerning decisions affecting the operation
 840 and management of the hospital, including, but not limited to,
 841 management evaluations, monitoring of clinical quality and the overall
 842 strategic direction of the hospital. The purchaser shall consult with the
 843 advisory board prior to implementing any material change in the
 844 operation or management of the hospital. The purchaser shall consider
 845 and implement, to the extent feasible, the advice of the advisory
 846 board."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	New section
Sec. 2	<i>from passage</i>	33-182aa
Sec. 3	<i>from passage</i>	33-182bb
Sec. 4	<i>from passage</i>	33-182dd
Sec. 5	<i>October 1, 2014</i>	New section
Sec. 6	<i>July 1, 2014</i>	19a-630
Sec. 7	<i>July 1, 2014</i>	19a-638
Sec. 8	<i>July 1, 2014</i>	19a-639

Sec. 9	<i>July 1, 2014</i>	19a-639a
Sec. 10	<i>from passage</i>	19a-486a
Sec. 11	<i>from passage</i>	19a-486b
Sec. 12	<i>from passage</i>	19a-486d(a)
Sec. 13	<i>from passage</i>	New section
Sec. 14	<i>July 1, 2014</i>	New section