



General Assembly

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Amendment

LCO No. 5689

SB0003505689SD0

Offered by:

SEN. LOONEY, 11th 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) "Affiliation" means the formation of a relationship between two
6 or more entities that permits the entities to negotiate jointly with third
7 parties over rates for professional medical services;

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

12 (3) "Hospital" has the same meaning as provided in section 19a-490
13 of the general statutes;

14 (4) "Hospital system" means: (A) A parent corporation of one or
15 more hospitals and any entity affiliated with such parent corporation
16 through ownership, governance or membership, or (B) a hospital and
17 any entity affiliated with such hospital through ownership,
18 governance or membership;

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

21 (6) "Medical foundation" means a medical foundation formed under
22 chapter 594b of the general statutes;

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

25 (8) "Person" has the same meaning as provided in section 35-25 of
26 the general statutes;

27 (9) "Professional corporation" has the same meaning as provided in
28 section 33-182a of the general statutes;

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

45 although its shareholders, partners or owners of the group practice
46 include single-physician professional corporations, limited liability
47 companies formed to render professional services or other entities in
48 which beneficial owners are individual physicians; and

49 (11) "Primary service area" means the smallest number of zip codes
50 from which the group practice draws at least seventy-five per cent of
51 its patients.

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

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

78 other entity organized or controlled by such hospital or hospital
79 system; (3) the employment of all or substantially all of the physicians
80 of a group practice by (A) another group practice that results in a
81 group practice comprised of eight or more physicians, or (B) a hospital,
82 hospital system, captive professional entity, medical foundation or
83 other entity organized by, controlled by or otherwise affiliated with
84 such hospital or hospital system; and (4) the acquisition of one or more
85 insolvent group practices by (A) another group practice that results in
86 a group practice comprised of eight or more physicians, or (B) a
87 hospital, hospital system, captive professional entity, medical
88 foundation or other entity organized by, controlled by or otherwise
89 affiliated with such hospital or hospital system.

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

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

110 (f) Not later than December 31, 2014, and annually thereafter, each

111 hospital and hospital system shall file with the Attorney General and
112 the Commissioner of Public Health a written report describing the
113 activities of the group practices owned or affiliated with such hospital
114 or hospital system. Such report shall include, for each such group
115 practice: (1) A description of the nature of the relationship between the
116 hospital or hospital system and the group practice; (2) the names and
117 specialties of each physician practicing medicine with the group
118 practice; (3) the names of the business entities that provide services as
119 part of the group practice and the address for each location where such
120 services are provided; (4) a description of the services provided at each
121 such location; and (5) the primary service area served by each such
122 location.

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

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

136 As used in this chapter:

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

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

145 [(2)] (3) "Hospital" means [a nonstock corporation organized under
146 chapter 602, or any predecessor statute thereto, or by special act and
147 licensed as] a hospital licensed pursuant to chapter 368v;

148 [(3)] (4) "Health system" means [a nonstock corporation organized
149 under chapter 602, or any predecessor statute thereto,] a business
150 entity consisting of a parent corporation of one or more hospitals
151 licensed pursuant to chapter 368v, and affiliated through governance,
152 membership or some other means;

153 [(4)] (5) "Medical school" means a school of allopathic medicine
154 leading to the M.D. degree, accredited by the Liaison Committee on
155 Medical Education, and affiliated through governance with or part of a
156 university that is either incorporated in this state or established
157 pursuant to any provision of the general statutes and accredited by the
158 New England Association of Schools and Colleges Commission on
159 Institutions of Higher Education; and

160 [(5)] (6) "Provider" means a physician licensed under chapter 370, a
161 chiropractor licensed under chapter 372, an optometrist licensed under
162 chapter 380 or a podiatrist licensed under chapter 375.

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

165 (a) (1) Any hospital, health system or medical school may organize
166 and become a member of a medical foundation under the provisions of
167 chapter 602 for the purpose of practicing medicine and providing
168 health care services as a medical foundation through employees or
169 agents of such medical foundation who are [licensed pursuant to
170 section 20-9 and through other] providers. Such medical foundation
171 shall be governed by a board of directors, which shall consist of an
172 equal or greater number of providers than nonprovider employees of
173 the members, in addition to such other directors as may be elected by

174 the members. The authority to appoint or elect board members shall
175 not be granted to any person or entity that is not a member of the
176 medical foundation.

177 (2) Notwithstanding the provisions of this subsection, (A) no
178 employee or representative of a for-profit hospital, for-profit health
179 system, for-profit medical school or any entity that owns or controls a
180 for-profit hospital, for-profit health system or for-profit medical school
181 may serve on the board of directors of a medical foundation organized
182 by a nonprofit hospital, nonprofit health system or nonprofit medical
183 school; (B) no employee or representative of a nonprofit hospital,
184 nonprofit health system, nonprofit medical school or any entity that
185 owns or controls a nonprofit hospital, nonprofit health system or
186 nonprofit medical school may serve on the board of directors of a
187 medical foundation organized by a for-profit hospital, for-profit health
188 system or for-profit medical school; and (C) no person shall serve on
189 the board of directors of a medical foundation organized by a for-profit
190 hospital, for-profit health system or for-profit medical school and, at
191 the same time, serve on the board of directors of a medical foundation
192 organized by a nonprofit hospital, nonprofit health system or
193 nonprofit medical school.

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

200 (c) Any medical group clinic corporation formed under chapter 594
201 of the general statutes, revision of 1958, revised to 1995, which amends
202 its certificate of incorporation pursuant to subsection (a) of section 33-
203 182cc, shall file with the Office of Health Care Access division of the
204 Department of Public Health a copy of its certificate of incorporation
205 and any amendments to its certificate of incorporation, including any
206 amendment to its certificate of incorporation that complies with the

207 requirements of subsection (a) of section 33-182cc, not later than ten
208 business days after the medical foundation files its certificate of
209 incorporation or any amendments to its certificate of incorporation
210 with the Secretary of the State.

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

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

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

233 Sec. 4. (NEW) (*Effective October 1, 2014*) Upon admitting a patient to
234 a hospital, hospital personnel shall promptly ask the patient whether
235 the patient desires for his or her physician to be notified of the hospital
236 admission. If the patient so desires, hospital personnel shall make
237 reasonable efforts to notify the physician designated by the patient of
238 the patient's hospital admission as soon as practicable, but not later

239 than twenty-four hours after the patient's request. For purposes of this
240 section, "hospital" shall have the same meaning as provided in section
241 19a-490 of the general statutes; and "physician" means a person
242 licensed under the provisions of chapter 370 of the general statutes.

243 Sec. 5. Section 19a-630 of the general statutes is repealed and the
244 following is substituted in lieu thereof (*Effective July 1, 2014*):

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

246 (1) "Affiliate" means a person, entity or organization controlling,
247 controlled by or under common control with another person, entity or
248 organization. Affiliate does not include a medical foundation
249 organized under chapter 594b.

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

253 (3) "Bed capacity" means the total number of inpatient beds in a
254 facility licensed by the Department of Public Health under sections
255 19a-490 to 19a-503, inclusive.

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

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

263 (6) "Days" means calendar days.

264 (7) "Deputy commissioner" means the deputy commissioner of
265 Public Health who oversees the Office of Health Care Access division
266 of the Department of Public Health.

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

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

272 (10) "Group practice" means eight or more full-time equivalent
273 physicians, legally organized in a partnership, professional
274 corporation, limited liability company formed to render professional
275 services, medical foundation, not-for-profit corporation, faculty
276 practice plan or other similar entity (A) in which each physician who is
277 a member of the group provides substantially the full range of services
278 that the physician routinely provides, including, but not limited to,
279 medical care, consultation, diagnosis or treatment, through the joint
280 use of shared office space, facilities, equipment or personnel; (B) for
281 which substantially all of the services of the physicians who are
282 members of the group are provided through the group and are billed
283 in the name of the group practice and amounts so received are treated
284 as receipts of the group; or (C) in which the overhead expenses of, and
285 the income from, the group are distributed in accordance with
286 methods previously determined by members of the group. An entity
287 that otherwise meets the definition of group practice under this section
288 shall be considered a group practice although its shareholders,
289 partners or owners of the group practice include single-physician
290 professional corporations, limited liability companies formed to render
291 professional services or other entities in which beneficial owners are
292 individual physicians.

293 [(10)] (11) "Health care facility" means (A) hospitals licensed by the
294 Department of Public Health under chapter 368v; (B) specialty
295 hospitals; (C) freestanding emergency departments; (D) outpatient
296 surgical facilities, as defined in section 19a-493b and licensed under
297 chapter 368v; (E) a hospital or other facility or institution operated by
298 the state that provides services that are eligible for reimbursement
299 under Title XVIII or XIX of the federal Social Security Act, 42 USC 301,

300 as amended; (F) a central service facility; (G) mental health facilities;
301 (H) substance abuse treatment facilities; and (I) any other facility
302 requiring certificate of need review pursuant to subsection (a) of
303 section 19a-638, as amended by this act. "Health care facility" includes
304 any parent company, subsidiary, affiliate or joint venture, or any
305 combination thereof, of any such facility.

306 [(11)] (12) "Nonhospital based" means located at a site other than the
307 main campus of the hospital.

308 [(12)] (13) "Office" means the Office of Health Care Access division
309 within the Department of Public Health.

310 [(13)] (14) "Person" means any individual, partnership, corporation,
311 limited liability company, association, governmental subdivision,
312 agency or public or private organization of any character, but does not
313 include the agency conducting the proceeding.

314 (15) "Physician" has the same meaning as provided in section 20-
315 13a.

316 [(14)] (16) "Transfer of ownership" means a transfer that impacts or
317 changes the governance or controlling body of a health care facility,
318 [or] institution or group practice, including, but not limited to, all
319 affiliations, mergers or any sale or transfer of net assets of a health care
320 facility.

321 Sec. 6. Section 19a-638 of the 2014 supplement to the general statutes
322 is repealed and the following is substituted in lieu thereof (*Effective July*
323 *1, 2014*):

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

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

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

327 (3) A transfer of ownership of a group practice to any entity other

328 than a physician or group of physicians, except when the parties have
329 signed a sale agreement to transfer such ownership on or before
330 September 1, 2014;

331 [(3)] (4) The establishment of a freestanding emergency department;

332 [(4)] (5) The termination of inpatient or outpatient services offered
333 by a hospital, including, but not limited to, the termination by a short-
334 term acute care general hospital or children's hospital of inpatient and
335 outpatient mental health and substance abuse services;

336 [(5)] (6) The establishment of an outpatient surgical facility, as
337 defined in section 19a-493b, or as established by a short-term acute
338 care general hospital;

339 [(6)] (7) The termination of surgical services by an outpatient
340 surgical facility, as defined in section 19a-493b, or a facility that
341 provides outpatient surgical services as part of the outpatient surgery
342 department of a short-term acute care general hospital, provided
343 termination of outpatient surgical services due to (A) insufficient
344 patient volume, or (B) the termination of any subspecialty surgical
345 service, shall not require certificate of need approval;

346 [(7)] (8) The termination of an emergency department by a short-
347 term acute care general hospital;

348 [(8)] (9) The establishment of cardiac services, including inpatient
349 and outpatient cardiac catheterization, interventional cardiology and
350 cardiovascular surgery;

351 [(9)] (10) The acquisition of computed tomography scanners,
352 magnetic resonance imaging scanners, positron emission tomography
353 scanners or positron emission tomography-computed tomography
354 scanners, by any person, physician, provider, short-term acute care
355 general hospital or children's hospital, except as provided for in
356 subdivision (22) of subsection (b) of this section;

- 357 ~~[(10)]~~ (11) The acquisition of nonhospital based linear accelerators;
- 358 ~~[(11)]~~ (12) An increase in the licensed bed capacity of a health care
359 facility;
- 360 ~~[(12)]~~ (13) The acquisition of equipment utilizing technology that
361 has not previously been utilized in the state;
- 362 ~~[(13)]~~ (14) An increase of two or more operating rooms within any
363 three-year period, commencing on and after October 1, 2010, by an
364 outpatient surgical facility, as defined in section 19a-493b, or by a
365 short-term acute care general hospital; and
- 366 ~~[(14)]~~ (15) The termination of inpatient or outpatient services offered
367 by a hospital or other facility or institution operated by the state that
368 provides services that are eligible for reimbursement under Title XVIII
369 or XIX of the federal Social Security Act, 42 USC 301, as amended.
- 370 (b) A certificate of need shall not be required for:
- 371 (1) Health care facilities owned and operated by the federal
372 government;
- 373 (2) The establishment of offices by a licensed private practitioner,
374 whether for individual or group practice, except when a certificate of
375 need is required in accordance with the requirements of section 19a-
376 493b or subdivision ~~[(9) or (10)]~~ (3), (10) or (11) of subsection (a) of this
377 section;
- 378 (3) A health care facility operated by a religious group that
379 exclusively relies upon spiritual means through prayer for healing;
- 380 (4) Residential care homes, nursing homes and rest homes, as
381 defined in subsection (c) of section 19a-490;
- 382 (5) An assisted living services agency, as defined in section 19a-490;
- 383 (6) Home health agencies, as defined in section 19a-490;

- 384 (7) Hospice services, as described in section 19a-122b;
- 385 (8) Outpatient rehabilitation facilities;
- 386 (9) Outpatient chronic dialysis services;
- 387 (10) Transplant services;
- 388 (11) Free clinics, as defined in section 19a-630, as amended by this
389 act;
- 390 (12) School-based health centers, community health centers, as
391 defined in section 19a-490a, not-for-profit outpatient clinics licensed in
392 accordance with the provisions of chapter 368v and federally qualified
393 health centers;
- 394 (13) A program licensed or funded by the Department of Children
395 and Families, provided such program is not a psychiatric residential
396 treatment facility;
- 397 (14) Any nonprofit facility, institution or provider that has a contract
398 with, or is certified or licensed to provide a service for, a state agency
399 or department for a service that would otherwise require a certificate
400 of need. The provisions of this subdivision shall not apply to a short-
401 term acute care general hospital or children's hospital, or a hospital or
402 other facility or institution operated by the state that provides services
403 that are eligible for reimbursement under Title XVIII or XIX of the
404 federal Social Security Act, 42 USC 301, as amended;
- 405 (15) A health care facility operated by a nonprofit educational
406 institution exclusively for students, faculty and staff of such institution
407 and their dependents;
- 408 (16) An outpatient clinic or program operated exclusively by or
409 contracted to be operated exclusively by a municipality, municipal
410 agency, municipal board of education or a health district, as described
411 in section 19a-241;

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

416 (18) Replacement of existing imaging equipment if such equipment
417 was acquired through certificate of need approval or a certificate of
418 need determination, provided a health care facility, provider,
419 physician or person notifies the office of the date on which the
420 equipment is replaced and the disposition of the replaced equipment;

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

423 (20) The partial or total elimination of services provided by an
424 outpatient surgical facility, as defined in section 19a-493b, except as
425 provided in subdivision (6) of subsection (a) of this section and section
426 19a-639e;

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

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

431 (c) (1) Any person, health care facility or institution that is unsure
432 whether a certificate of need is required under this section, or (2) any
433 health care facility that proposes to relocate pursuant to section 19a-
434 639c shall send a letter to the office that describes the project and
435 requests that the office make a determination as to whether a certificate
436 of need is required. In the case of a relocation of a health care facility,
437 the letter shall include information described in section 19a-639c. A
438 person, health care facility or institution making such request shall
439 provide the office with any information the office requests as part of its
440 determination process.

441 (d) The Commissioner of Public Health may implement policies and

442 procedures necessary to administer the provisions of this section while
443 in the process of adopting such policies and procedures as regulation,
444 provided the commissioner holds a public hearing prior to
445 implementing the policies and procedures and prints notice of intent to
446 adopt regulations in the Connecticut Law Journal not later than twenty
447 days after the date of implementation. Policies and procedures
448 implemented pursuant to this section shall be valid until the time final
449 regulations are adopted. Final regulations shall be adopted by
450 December 31, 2011.

451 Sec. 7. Section 19a-639 of the 2014 supplement to the general statutes
452 is repealed and the following is substituted in lieu thereof (*Effective July*
453 *1, 2014*):

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

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

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

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

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

468 (5) Whether the applicant has satisfactorily demonstrated how the
469 proposal will improve quality, accessibility and cost effectiveness of
470 health care delivery in the region, including, but not limited to, (A)
471 provision of or any change in the access to services for Medicaid

472 recipients and indigent persons, and (B) the impact upon the cost
473 effectiveness of providing access to services provided under the
474 Medicaid program;

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

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

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

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

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

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

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

498 (b) In deliberations as described in subsection (a) of this section,
499 there shall be a presumption in favor of approving the certificate of
500 need application for a transfer of ownership of a group practice, as

501 described in subdivision (3) of subsection (a) of section 19a-638, as
502 amended by this act, when an offer was made in response to a request
503 for proposal or similar voluntary offer for sale.

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

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

509 (a) An application for a certificate of need shall be filed with the
510 office in accordance with the provisions of this section and any
511 regulations adopted by the Department of Public Health. The
512 application shall address the guidelines and principles set forth in (1)
513 subsection (a) of section 19a-639, as amended by this act, and (2)
514 regulations adopted by the department. The applicant shall include
515 with the application a nonrefundable application fee of five hundred
516 dollars.

517 (b) Prior to the filing of a certificate of need application, the
518 applicant shall publish notice that an application is to be submitted to
519 the office in a newspaper having a substantial circulation in the area
520 where the project is to be located. Such notice shall (1) be published (A)
521 not later than twenty days prior to the date of filing of the certificate of
522 need application, and (B) for not less than three consecutive days, and
523 (2) contain a brief description of the nature of the project and the street
524 address where the project is to be located. An applicant shall file the
525 certificate of need application with the office not later than ninety days
526 after publishing notice of the application in accordance with the
527 provisions of this subsection. The office shall not accept the applicant's
528 certificate of need application for filing unless the application is
529 accompanied by the application fee prescribed in subsection (a) of this
530 section and proof of compliance with the publication requirements
531 prescribed in this subsection.

532 (c) Not later than five business days after receipt of a properly filed
533 certificate of need application, the office shall publish notice of the
534 application on its web site. Not later than thirty days after the date of
535 filing of the application, the office may request such additional
536 information as the office determines necessary to complete the
537 application. The applicant shall, not later than sixty days after the date
538 of the office's request, submit the requested information to the office. If
539 an applicant fails to submit the requested information to the office
540 within the sixty-day period, the office shall consider the application to
541 have been withdrawn.

542 (d) Upon determining that an application is complete, the office
543 shall provide notice of this determination to the applicant and to the
544 public in accordance with regulations adopted by the department. In
545 addition, the office shall post such notice on its web site. The date on
546 which the office posts such notice on its web site shall begin the review
547 period. Except as provided in this subsection, (1) the review period for
548 a completed application shall be ninety days from the date on which
549 the office posts such notice on its web site; and (2) the office shall issue
550 a decision on a completed application prior to the expiration of the
551 ninety-day review period. The review period for a completed
552 application that involves a transfer of a group practice, as described in
553 subdivision (3) of subsection (a) of section 19a-638, as amended by this
554 act, when the offer was made in response to a request for proposal or
555 similar voluntary offer for sale shall be sixty days from the date on
556 which the office posts notice on its web site. Upon request or for good
557 cause shown, the office may extend the review period for a period of
558 time not to exceed sixty days. If the review period is extended, the
559 office shall issue a decision on the completed application prior to the
560 expiration of the extended review period. If the office holds a public
561 hearing concerning a completed application in accordance with
562 subsection (e) or (f) of this section, the office shall issue a decision on
563 the completed application not later than sixty days after the date the
564 office closes the public hearing record.

565 (e) [The] Except as provided in this subsection, the office shall hold
566 a public hearing on a properly filed and completed certificate of need
567 application if three or more individuals or an individual representing
568 an entity with five or more people submits a request, in writing, that a
569 public hearing be held on the application. For a properly filed and
570 completed certificate of need application involving a transfer of
571 ownership of a group practice, as described in subdivision (3) of
572 subsection (a) of section 19a-638, as amended by this act, when an offer
573 was made in response to a request for proposal or similar voluntary
574 offer for sale, a public hearing shall be held if twenty-five or more
575 individuals or an individual representing twenty-five or more people
576 submits a request, in writing, that a public hearing be held on the
577 application. Any request for a public hearing shall be made to the
578 office not later than thirty days after the date the office determines the
579 application to be complete.

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

587 (g) The Commissioner of Public Health may implement policies and
588 procedures necessary to administer the provisions of this section while
589 in the process of adopting such policies and procedures as regulation,
590 provided the commissioner holds a public hearing prior to
591 implementing the policies and procedures and prints notice of intent to
592 adopt regulations in the Connecticut Law Journal not later than twenty
593 days after the date of implementation. Policies and procedures
594 implemented pursuant to this section shall be valid until the time final
595 regulations are adopted. Final regulations shall be adopted by
596 December 31, 2011.

597 Sec. 9. Section 19a-486a of the general statutes is repealed and the

598 following is substituted in lieu thereof (*Effective from passage*):

599 (a) No nonprofit hospital shall enter into an agreement to transfer a
600 material amount of its assets or operations or a change in control of
601 operations to a person that is organized or operated for profit without
602 first having received approval of the agreement by the commissioner
603 and the Attorney General pursuant to sections 19a-486 to 19a-486h,
604 inclusive, and pursuant to the Attorney General's authority under
605 section 3-125. Any such agreement without the approval required by
606 sections 19a-486 to 19a-486h, inclusive, shall be void.

607 (b) Prior to any transaction described in subsection (a) of this
608 section, the nonprofit hospital and the purchaser shall concurrently
609 submit a certificate of need determination letter as described in
610 subsection (c) of section 19a-638, as amended by this act, to the
611 commissioner and the Attorney General by serving it on them by
612 certified mail, return receipt requested, or delivering it by hand to each
613 office. The certificate of need determination letter shall contain: (1) The
614 name and address of the nonprofit hospital; (2) the name and address
615 of the purchaser; (3) a brief description of the terms of the proposed
616 agreement; and (4) the estimated capital expenditure, cost or value
617 associated with the proposed agreement. The certificate of need
618 determination letter shall be subject to disclosure pursuant to section 1-
619 210.

620 (c) Not later than thirty days after receipt of the certificate of need
621 determination letter by the commissioner and the Attorney General,
622 the purchaser and the nonprofit hospital shall hold a hearing on the
623 contents of the certificate of need determination letter in the
624 municipality in which the new hospital is proposed to be located. The
625 nonprofit hospital shall provide not less than two weeks' advance
626 notice of the hearing to the public by publication in a newspaper
627 having a substantial circulation in the affected community for not less
628 than three consecutive days. Such notice shall contain substantially the
629 same information as in the certificate of need determination letter. The
630 purchaser and the nonprofit hospital shall record and transcribe the

631 hearing and make such recording or transcription available to the
632 commissioner, the Attorney General or members of the public upon
633 request.

634 [(c)] (d) The commissioner and the Attorney General shall review
635 the certificate of need determination letter. The Attorney General shall
636 determine whether the agreement requires approval pursuant to this
637 chapter. If such approval is required, the commissioner and the
638 Attorney General shall transmit to the purchaser and the nonprofit
639 hospital an application form for approval pursuant to this chapter,
640 unless the commissioner refuses to accept a filed or submitted
641 certificate of need determination letter. Such application form shall
642 require the following information: (1) The name and address of the
643 nonprofit hospital; (2) the name and address of the purchaser; (3) a
644 description of the terms of the proposed agreement; (4) copies of all
645 contracts, agreements and memoranda of understanding relating to
646 the proposed agreement; (5) a fairness evaluation by an independent
647 person who is an expert in such agreements, that includes an analysis
648 of each of the criteria set forth in section 19a-486c; (6) documentation
649 that the nonprofit hospital exercised the due diligence required by
650 subdivision (2) of subsection (a) of section 19a-486c, including
651 disclosure of the terms of any other offers to transfer assets or
652 operations or change control of operations received by the nonprofit
653 hospital and the reason for rejection of such offers; and (7) such other
654 information as the commissioner or the Attorney General deem
655 necessary to their review pursuant to the provisions of sections 19a-486
656 to 19a-486f, inclusive, and chapter 368z. The application shall be
657 subject to disclosure pursuant to section 1-210.

658 [(d)] (e) No later than sixty days after the date of mailing of the
659 application form, the nonprofit hospital and the purchaser shall
660 concurrently file an application with the commissioner and the
661 Attorney General containing all the required information. The
662 commissioner and the Attorney General shall review the application
663 and determine whether the application is complete. The commissioner

664 and the Attorney General shall, no later than twenty days after the
665 date of their receipt of the application, provide written notice to the
666 nonprofit hospital and the purchaser of any deficiencies in the
667 application. Such application shall not be deemed complete until such
668 deficiencies are corrected.

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

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

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

678 (a) Not later than one hundred twenty days after the date of receipt
679 of the completed application pursuant to subsection (d) of section 19a-
680 486a, as amended by this act, the Attorney General and the
681 commissioner shall approve the application, with or without
682 modification, or deny the application. The commissioner shall also
683 determine, in accordance with the provisions of chapter 368z, whether
684 to approve, with or without modification, or deny the application for a
685 certificate of need that is part of the completed application.
686 Notwithstanding the provisions of section 19a-639a, the commissioner
687 shall complete the decision on the application for a certificate of need
688 within the same time period as the completed application. Such one-
689 hundred-twenty-day period may be extended by agreement of the
690 Attorney General, the commissioner, the nonprofit hospital and the
691 purchaser. If the Attorney General initiates a proceeding to enforce a
692 subpoena pursuant to section 19a-486c or 19a-486d, as amended by this
693 act, the one-hundred-twenty-day period shall be tolled until the final
694 court decision on the last pending enforcement proceeding, including
695 any appeal or time for the filing of such appeal. Unless the one-

696 hundred-twenty-day period is extended pursuant to this section, if the
697 commissioner and Attorney General fail to take action on an
698 agreement prior to the one hundred twenty-first day after the date of
699 the filing of the completed application, the application shall be deemed
700 approved.

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

704 Sec. 11. Subsection (a) of section 19a-486d of the general statutes is
705 repealed and the following is substituted in lieu thereof (*Effective from*
706 *passage*):

707 (a) The commissioner shall deny an application filed pursuant to
708 subsection (d) of section 19a-486a, as amended by this act, unless the
709 commissioner finds that: (1) The affected community will be assured of
710 continued access to high quality and affordable health care after
711 accounting for any proposed change impacting hospital staffing; (2) in
712 a situation where the asset or operation to be transferred provides or
713 has provided health care services to the uninsured or underinsured,
714 the purchaser has made a commitment to provide health care to the
715 uninsured and the underinsured; (3) in a situation where health care
716 providers or insurers will be offered the opportunity to invest or own
717 an interest in the purchaser or an entity related to the purchaser
718 safeguard procedures are in place to avoid a conflict of interest in
719 patient referral; and (4) certificate of need authorization is justified in
720 accordance with chapter 368z. The commissioner may contract with
721 any person, including, but not limited to, financial or actuarial experts
722 or consultants, or legal experts with the approval of the Attorney
723 General, to assist in reviewing the completed application. The
724 commissioner shall submit any bills for such contracts to the
725 purchaser. Such bills shall not exceed one hundred fifty thousand
726 dollars. The purchaser shall pay such bills no later than thirty days
727 after the date of receipt of such bills."

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>October 1, 2014</i>	New section
Sec. 5	<i>July 1, 2014</i>	19a-630
Sec. 6	<i>July 1, 2014</i>	19a-638
Sec. 7	<i>July 1, 2014</i>	19a-639
Sec. 8	<i>July 1, 2014</i>	19a-639a
Sec. 9	<i>from passage</i>	19a-486a
Sec. 10	<i>from passage</i>	19a-486b
Sec. 11	<i>from passage</i>	19a-486d(a)