



General Assembly

February Session, 2016

Raised Bill No. 5211

LCO No. 1088



Referred to Committee on PUBLIC HEALTH

Introduced by:
(PH)

AN ACT CONCERNING CERTIFICATES OF NEED.

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

1 Section 1. Section 19a-630 of the 2016 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2016*):

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

5 (1) "Affiliate" means a person, entity or organization controlling,
6 controlled by or under common control with another person, entity or
7 organization. Affiliate does not include a medical foundation
8 organized under chapter 594b.

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

12 (3) "Bed capacity" means the total number of inpatient beds in a
13 facility licensed by the Department of Public Health under sections
14 19a-490 to 19a-503, inclusive.

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

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

22 (6) "Days" means calendar days.

23 (7) "Deputy commissioner" means the deputy commissioner of
24 Public Health who oversees the Office of Health Care Access division
25 of the Department of Public Health.

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

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

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

45 methods previously determined by members of the group. An entity
46 that otherwise meets the definition of group practice under this section
47 shall be considered a group practice although its shareholders,
48 partners or owners of the group practice include single-physician
49 professional corporations, limited liability companies formed to render
50 professional services or other entities in which beneficial owners are
51 individual physicians.

52 (11) "Health care facility" means (A) hospitals licensed by the
53 Department of Public Health under chapter 368v; (B) specialty
54 hospitals; (C) freestanding emergency departments; (D) outpatient
55 surgical facilities, as defined in section 19a-493b and licensed under
56 chapter 368v; (E) a hospital or other facility or institution operated by
57 the state that provides services that are eligible for reimbursement
58 under Title XVIII or XIX of the federal Social Security Act, 42 USC 301,
59 as amended; (F) a central service facility; (G) mental health facilities;
60 (H) substance abuse treatment facilities; and (I) any other facility
61 requiring certificate of need review pursuant to subsection (a) of
62 section 19a-638. "Health care facility" includes any parent company,
63 subsidiary, affiliate or joint venture, or any combination thereof, of any
64 such facility.

65 (12) "Nonhospital based" means located at a site other than the main
66 campus of the hospital.

67 (13) "Office" means the Office of Health Care Access division within
68 the Department of Public Health.

69 (14) "Person" means any individual, partnership, corporation,
70 limited liability company, association, governmental subdivision,
71 agency or public or private organization of any character, but does not
72 include the agency conducting the proceeding.

73 (15) "Physician" has the same meaning as provided in section 20-
74 13a.

75 (16) "Transfer of ownership" means a transfer that impacts or
76 changes the governance or controlling body of a health care facility,
77 institution or large group practice, including, but not limited to, all
78 affiliations, mergers or any sale or transfer of net assets of a health care
79 facility.

80 (17) "Reduction of specialty services" means a fifty per cent or
81 greater decrease of direct care staff hours within a health care facility
82 unit that provides inpatient or outpatient obstetric and maternity,
83 pediatric, emergency or critical care services.

84 Sec. 2. Subsection (a) of section 19a-638 of the 2016 supplement to
85 the general statutes is repealed and the following is substituted in lieu
86 thereof (*Effective October 1, 2016*):

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

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

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

90 (3) A transfer of ownership of a large group practice to any entity
91 other than a (A) physician, or (B) group of two or more physicians,
92 legally organized in a partnership, professional corporation or limited
93 liability company formed to render professional services and not
94 employed by or an affiliate of any hospital, medical foundation,
95 insurance company or other similar entity;

96 (4) The establishment of a freestanding emergency department;

97 (5) The termination of inpatient or outpatient services offered by a
98 hospital, including, but not limited to, the termination by a short-term
99 acute care general hospital or children's hospital of inpatient and
100 outpatient mental health and substance abuse services;

101 (6) The establishment of an outpatient surgical facility, as defined in
102 section 19a-493b, or as established by a short-term acute care general

103 hospital;

104 (7) The termination of surgical services by an outpatient surgical
105 facility, as defined in section 19a-493b, or a facility that provides
106 outpatient surgical services as part of the outpatient surgery
107 department of a short-term acute care general hospital, provided
108 termination of outpatient surgical services due to (A) insufficient
109 patient volume, or (B) the termination of any subspecialty surgical
110 service, shall not require certificate of need approval;

111 (8) The termination of an emergency department by a short-term
112 acute care general hospital;

113 (9) The establishment of cardiac services, including inpatient and
114 outpatient cardiac catheterization, interventional cardiology and
115 cardiovascular surgery;

116 (10) The acquisition of computed tomography scanners, magnetic
117 resonance imaging scanners, positron emission tomography scanners
118 or positron emission tomography-computed tomography scanners, by
119 any person, physician, provider, short-term acute care general hospital
120 or children's hospital, except (A) as provided for in subdivision (22) of
121 subsection (b) of this section, and (B) a certificate of need issued by the
122 office shall not be required where such scanner is a replacement for a
123 scanner that was previously acquired through certificate of need
124 approval or a certificate of need determination;

125 (11) The acquisition of nonhospital based linear accelerators;

126 (12) An increase in the licensed bed capacity of a health care facility;

127 (13) The acquisition of equipment utilizing technology that has not
128 previously been utilized in the state;

129 (14) An increase of two or more operating rooms within any three-
130 year period, commencing on and after October 1, 2010, by an
131 outpatient surgical facility, as defined in section 19a-493b, or by a

132 short-term acute care general hospital; [and]

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

137 (16) The reduction of specialty services offered by a hospital.

138 Sec. 3. Subsection (a) of section 19a-639 of the 2016 supplement to
139 the general statutes is repealed and the following is substituted in lieu
140 thereof (*Effective October 1, 2016*):

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

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

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

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

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

155 (5) Whether the applicant has satisfactorily demonstrated how the
156 proposal will improve quality, accessibility and cost effectiveness of
157 health care delivery in the region, including, but not limited to,
158 provision of or any change in the access to services for Medicaid
159 recipients and indigent persons;

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

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

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

169 (9) Whether the applicant has satisfactorily demonstrated that the
170 proposed project shall not result in an unnecessary duplication of
171 existing or approved health care services or facilities;

172 (10) Whether an applicant, who has failed to provide or reduced
173 access to services by Medicaid recipients or indigent persons, has
174 demonstrated good cause for doing so, which shall not be
175 demonstrated solely on the basis of differences in reimbursement rates
176 between Medicaid and other health care payers;

177 (11) Whether the applicant has satisfactorily demonstrated that the
178 proposal will not negatively impact the diversity of health care
179 providers and patient choice in the geographic region; [and]

180 (12) Whether the applicant has satisfactorily demonstrated that any
181 consolidation resulting from the proposal will not adversely affect
182 health care costs or accessibility to care; and

183 (13) Whether the applicant has satisfactorily demonstrated that the
184 proposal will meet the health care needs of the public in the
185 geographic region served by considering any community needs
186 assessment.

187 Sec. 4. Subsection (e) of section 19a-639a of the 2016 supplement to
188 the general statutes is repealed and the following is substituted in lieu

189 thereof (*Effective October 1, 2016*):

190 (e) Except as provided in this subsection, the office shall hold a
191 public hearing in the affected community, as defined in subsection (d)
192 of section 19a-639, on a properly filed and completed certificate of need
193 application if [three or more individuals or an individual representing
194 an entity with five or more people] any individual submits a request,
195 in writing, that a public hearing be held on the application. For a
196 properly filed and completed certificate of need application involving
197 a transfer of ownership of a large group practice, as described in
198 subdivision (3) of subsection (a) of section 19a-638, as amended by this
199 act, when an offer was made in response to a request for proposal or
200 similar voluntary offer for sale, a public hearing shall be held if
201 twenty-five or more individuals or an individual representing twenty-
202 five or more people submits a request, in writing, that a public hearing
203 be held on the application. Any request for a public hearing shall be
204 made to the office not later than thirty days after the date the office
205 determines the application to be complete.

206 Sec. 5. Section 19a-641 of the general statutes is repealed and the
207 following is substituted in lieu thereof (*Effective October 1, 2016*):

208 Any health care facility or institution, [and] any state health care
209 facility or institution, any three or more individuals, collectively, or
210 any individual representing an entity with five or more people,
211 aggrieved by any final decision of said office under the provisions of
212 sections 19a-630 to 19a-639e, inclusive, as amended by this act, may
213 appeal from such decision in accordance with the provisions of section
214 4-183, except venue shall be in the judicial district in which it is
215 located. Such appeal shall have precedence in respect to order of trial
216 over all other cases except writs of habeas corpus, actions brought by
217 or on behalf of the state, including informations on the relation of
218 private individuals, and appeals from awards or decisions of workers'
219 compensation commissioners.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	19a-630
Sec. 2	<i>October 1, 2016</i>	19a-638(a)
Sec. 3	<i>October 1, 2016</i>	19a-639(a)
Sec. 4	<i>October 1, 2016</i>	19a-639a(e)
Sec. 5	<i>October 1, 2016</i>	19a-641

Statement of Purpose:

To change the requirements for certificates of need.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]