



General Assembly

February Session, 2018

**Raised Bill No. 5215**

LCO No. 1031



Referred to Committee on PUBLIC HEALTH

Introduced by:  
(PH)

**AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S  
RECOMMENDATIONS REGARDING REVISIONS TO THE OFFICE OF  
HEALTH CARE ACCESS STATUTES.**

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

1 Section 1. Section 19a-639a of the general statutes is repealed and  
2 the following is substituted in lieu thereof (*Effective July 1, 2018*):

3 (a) An application for a certificate of need shall be filed with the  
4 office in accordance with the provisions of this section and any  
5 regulations adopted by the Department of Public Health. The  
6 application shall address the guidelines and principles set forth in (1)  
7 subsection (a) of section 19a-639, and (2) regulations adopted by the  
8 department. The applicant shall include with the application a  
9 nonrefundable application fee of five hundred dollars. If the  
10 application concerns the transfer of ownership of a hospital, the  
11 applicant shall include in a single application all information related to  
12 all supplemental transactions associated with such transfer of  
13 ownership that would otherwise require a separate application for a  
14 certificate of need.

15 (b) Prior to the filing of a certificate of need application, the  
16 applicant shall publish notice that an application is to be submitted to  
17 the office in a newspaper having a substantial circulation in the area  
18 where the project is to be located. Such notice shall (1) be published (A)  
19 not later than twenty days prior to the date of filing of the certificate of  
20 need application, and (B) for not less than three consecutive days, and  
21 (2) contain a brief description of the nature of the project and the street  
22 address where the project is to be located. An applicant shall file the  
23 certificate of need application with the office not later than ninety days  
24 after publishing notice of the application in accordance with the  
25 provisions of this subsection. The office shall not accept the applicant's  
26 certificate of need application for filing unless the application is  
27 accompanied by the application fee prescribed in subsection (a) of this  
28 section and proof of compliance with the publication requirements  
29 prescribed in this subsection.

30 (c) (1) Not later than five business days after receipt of a properly  
31 filed certificate of need application, the office shall publish notice of the  
32 application on its Internet web site. Not later than thirty days after the  
33 date of filing of the application, the office may request such additional  
34 information as the office determines necessary to complete the  
35 application. In addition to any information requested by the office, if  
36 the application involves the transfer of ownership of a hospital, as  
37 defined in section 19a-639, as amended by this act, the applicant shall  
38 submit to the office (A) a plan demonstrating how health care services  
39 will be provided by the new hospital for the first three years following  
40 the transfer of ownership of the hospital, including any consolidation,  
41 reduction, elimination or expansion of existing services or introduction  
42 of new services, and (B) the names of persons currently holding a  
43 position with the hospital to be purchased or the purchaser, as defined  
44 in section 19a-639, as amended by this act, as an officer, director, board  
45 member or senior manager, whether or not such person is expected to  
46 hold a position with the hospital after completion of the transfer of  
47 ownership of the hospital and any salary, severance, stock offering or  
48 any financial gain, current or deferred, such person is expected to

49 receive as a result of, or in relation to, the transfer of ownership of the  
50 hospital.

51 (2) The applicant shall, not later than sixty days after the date of the  
52 office's request, submit any requested information and any  
53 information required under this subsection to the office. If an applicant  
54 fails to submit such information to the office within the sixty-day  
55 period, the office shall consider the application to have been  
56 withdrawn.

57 (d) Upon determining that an application is complete, the office  
58 shall provide notice of this determination to the applicant and to the  
59 public in accordance with regulations adopted by the department. In  
60 addition, the office shall post such notice on its Internet web site. The  
61 date on which the office posts such notice on its Internet web site shall  
62 begin the review period. Except as provided in this subsection, (1) the  
63 review period for a completed application shall be ninety days from  
64 the date on which the office posts such notice on its Internet web site;  
65 and (2) the office shall issue a decision on a completed application  
66 prior to the expiration of the ninety-day review period. The review  
67 period for a completed application that involves a transfer of a large  
68 group practice, as described in subdivision (3) of subsection (a) of  
69 section 19a-638, when the offer was made in response to a request for  
70 proposal or similar voluntary offer for sale, shall be sixty days from the  
71 date on which the office posts notice on its Internet web site. Upon  
72 request or for good cause shown, the office may extend the review  
73 period for a period of time not to exceed sixty days. If the review  
74 period is extended, the office shall issue a decision on the completed  
75 application prior to the expiration of the extended review period. If the  
76 office holds a public hearing concerning a completed application in  
77 accordance with subsection (e) or (f) of this section, the office shall  
78 issue a decision on the completed application not later than sixty days  
79 after the date the office closes the public hearing record.

80 (e) Except as provided in this subsection, the office shall hold a  
81 public hearing on a properly filed and completed certificate of need

82 application if three or more individuals or an individual representing  
83 an entity with five or more people submits a request, in writing, that a  
84 public hearing be held on the application. For a properly filed and  
85 completed certificate of need application involving a transfer of  
86 ownership of a large group practice, as described in subdivision (3) of  
87 subsection (a) of section 19a-638, when an offer was made in response  
88 to a request for proposal or similar voluntary offer for sale, a public  
89 hearing shall be held if twenty-five or more individuals or an  
90 individual representing twenty-five or more people submits a request,  
91 in writing, that a public hearing be held on the application. Any  
92 request for a public hearing shall be made to the office not later than  
93 thirty days after the date the office determines the application to be  
94 complete.

95 (f) (1) The office shall hold a public hearing with respect to each  
96 certificate of need application filed pursuant to section 19a-638 after  
97 December 1, 2015, that concerns any transfer of ownership involving a  
98 hospital. Such hearing shall be held in the municipality in which the  
99 hospital that is the subject of the application is located.

100 (2) The office may hold a public hearing with respect to any  
101 certificate of need application submitted under this chapter. The office  
102 shall provide not less than two weeks' advance notice to the applicant,  
103 in writing, and to the public by publication in a newspaper having a  
104 substantial circulation in the area served by the health care facility or  
105 provider. In conducting its activities under this chapter, the office may  
106 hold hearing on applications of a similar nature at the same time.

107 (g) (1) Notwithstanding the provisions of section 4-177a, any person  
108 who contests a certificate of need application and seeks party or  
109 intervenor status shall submit a written petition to the office not less  
110 than fourteen days prior to the date of the public hearing with respect  
111 to such application.

112 (2) Any person granted party or intervenor status under this  
113 subsection shall submit written testimony to the office not less than ten

114 days prior to the date of the public hearing with respect to the  
115 certificate of need application.

116 (3) The office may waive the requirements of this subsection at any  
117 time upon a showing of good cause.

118 ~~[(g)]~~ (h) The Commissioner of Public Health may implement  
119 policies and procedures necessary to administer the provisions of this  
120 section while in the process of adopting such policies and procedures  
121 as regulation, provided the commissioner holds a public hearing prior  
122 to implementing the policies and procedures and prints notice of intent  
123 to adopt regulations on the department's Internet web site and the  
124 eRegulations System not later than twenty days after the date of  
125 implementation. Policies and procedures implemented pursuant to  
126 this section shall be valid until the time final regulations are adopted.

127 Sec. 2. Section 19a-681 of the general statutes is repealed and the  
128 following is substituted in lieu thereof (*Effective July 1, 2018*):

129 (a) For purposes of this section: (1) "Detailed patient bill" means a  
130 patient billing statement that includes, in each line item, the hospital's  
131 current pricemaster code, a description of the charge and the billed  
132 amount; and (2) "pricemaster" means a detailed schedule of hospital  
133 charges.

134 (b) Each hospital shall file with the office its current pricemaster  
135 which shall include each charge in its detailed schedule of charges.

136 (c) Upon the request of the Department of Public Health or a  
137 patient, a hospital shall provide to the department or the patient a  
138 detailed patient bill. If the billing detail by line item on a detailed  
139 patient bill does not agree with the detailed schedule of charges on file  
140 with the office for the date of service specified on the bill, the hospital  
141 shall be subject to a civil penalty of five hundred dollars per  
142 occurrence payable to the state not later than fourteen days after the  
143 date of notification. The penalty shall be imposed in accordance with  
144 section 19a-653, as amended by this act. The office may issue an order

145 requiring such hospital, not later than fourteen days after the date of  
146 notification of an overcharge to a patient, to adjust the bill to be  
147 consistent with the detailed schedule of charges on file with the office  
148 for the date of service specified on the detailed patient bill.

149 (d) Each hospital shall post a copy of its current pricemaster on its  
150 Internet web site in an easily accessible location. The pricemaster shall  
151 be the version in effect at the time of posting. Every time a hospital  
152 files its pricemaster with the office, the hospital shall update the  
153 pricemaster posted on its Internet web site.

154 Sec. 3. Subsection (f) of section 19a-654 of the general statutes is  
155 repealed and the following is substituted in lieu thereof (*Effective from*  
156 *passage*):

157 (f) The Commissioner of Public Health [shall] may adopt  
158 regulations, in accordance with the provisions of chapter 54, to carry  
159 out the provisions of this section.

160 Sec. 4. Subdivision (5) of subsection (d) of section 19a-639 of the  
161 general statutes is repealed and the following is substituted in lieu  
162 thereof (*Effective July 1, 2018*):

163 (5) The office may place any conditions on the approval of a  
164 certificate of need application [involving a transfer of ownership of a  
165 hospital] consistent with the provisions of this chapter. Before placing  
166 any such conditions on an approval involving a transfer or ownership  
167 of a hospital, the office shall weigh the value of such conditions in  
168 promoting the purposes of this chapter against the individual and  
169 cumulative burden of such conditions on the transacting parties and  
170 the new hospital. For each condition imposed, the office shall include a  
171 concise statement of the legal and factual basis for such condition and  
172 the provision or provisions of this chapter that it is intended to  
173 promote. Each condition shall be reasonably tailored in time and  
174 scope. The transacting parties or the new hospital shall have the right  
175 to make a request to the office for an amendment to, or relief from, any  
176 condition based on changed circumstances, hardship or for other good

177 cause.

178 Sec. 5. Subsection (e) of section 19a-639 of the general statutes is  
179 repealed and the following is substituted in lieu thereof (*Effective July*  
180 *1, 2018*):

181 (e) (1) If the certificate of need application (A) involves the transfer  
182 of ownership of a hospital, (B) the purchaser is a hospital, as defined in  
183 section 19a-490, whether located within or outside the state, that had  
184 net patient revenue for fiscal year 2013 in an amount greater than one  
185 billion five hundred million dollars or a hospital system, as defined in  
186 section 19a-486i, as amended by this act, whether located within or  
187 outside the state, that had net patient revenue for fiscal year 2013 in an  
188 amount greater than one billion five hundred million dollars, or any  
189 person that is organized or operated for profit, and (C) such  
190 application is approved, the office shall hire an independent consultant  
191 to serve as a post-transfer compliance reporter for a period of three  
192 years after completion of the transfer of ownership of the hospital. The  
193 independent consultant shall have no previous financial interest with  
194 the hospital or hospital system, or any affiliate of the hospital or  
195 hospital system, no previous sanctions and no adverse decisions  
196 regarding monitoring activities. Such reporter shall, at a minimum: (i)  
197 Meet with representatives of the purchaser, the new hospital and  
198 members of the affected community served by the new hospital not  
199 less than quarterly; and (ii) report to the office not less than quarterly  
200 concerning (I) efforts the purchaser and representatives of the new  
201 hospital have taken to comply with any conditions the office placed on  
202 the approval of the certificate of need application and plans for future  
203 compliance, and (II) community benefits and uncompensated care  
204 provided by the new hospital. The purchaser shall give the reporter  
205 access to its records and facilities for the purposes of carrying out the  
206 reporter's duties. The purchaser shall hold a public hearing in the  
207 municipality in which the new hospital is located not less than  
208 annually during the reporting period to provide for public review and  
209 comment on the reporter's reports and findings.

210 (2) If the reporter finds that the purchaser has breached a condition  
211 of the approval of the certificate of need application, the office may [,  
212 in] take one of the following actions: (A) In consultation with the  
213 purchaser, the reporter and any other interested parties it deems  
214 appropriate, implement a performance improvement plan designed to  
215 remedy the conditions identified by the reporter and continue the  
216 reporting period for up to one year following a determination by the  
217 office that such conditions have been resolved; (B) institute an action to  
218 enjoin the purchaser from engaging in conduct in violation of the  
219 certificate of need; or (C) impose a civil penalty in accordance with  
220 section 19a-653, as amended by this act. In addition, for a breach of a  
221 condition specifying cost or price limits, the office may require a  
222 partial or full refund or repayment to the affected payer of the amount  
223 in excess of the conditioned limits.

224 (3) [The purchaser shall provide funds, in an amount determined by  
225 the office not to exceed two hundred thousand dollars annually, for  
226 the hiring of the post-transfer compliance reporter.] Upon the filing of  
227 a certificate of need application involving the transfer of ownership of  
228 a hospital, the purchaser shall establish an escrow account pursuant to  
229 a formal escrow agreement provided by the office for the purpose of  
230 paying the bills for services rendered by the independent consultant.  
231 The purchaser shall initially fund the escrow account with two  
232 hundred thousand dollars. The escrow agent shall pay such bills out of  
233 the escrow account directly to the independent consultant not later  
234 than thirty days after receipt of each bill by the purchaser.

235 Sec. 6. Subsection (j) of section 19a-639f of the general statutes is  
236 repealed and the following is substituted in lieu thereof (*Effective July*  
237 *1, 2018*):

238 (j) The office shall retain an independent consultant with expertise  
239 on the economic analysis of the health care market and health care  
240 costs and prices to conduct each cost and market impact review, as  
241 described in this section. [The office shall submit bills for such services  
242 to the purchaser, as defined in subsection (d) of section 19a-639. Such

243 purchaser] Upon the filing of a certificate of need application involving  
244 the transfer of ownership of a hospital, the purchaser shall establish an  
245 escrow account pursuant to a formal escrow agreement provided by  
246 the Office of Health Care Access for the purpose of paying the bills for  
247 services rendered by the independent consultant. The purchaser shall  
248 initially fund the escrow account with two hundred thousand dollars.  
249 The office shall submit bills for independent consultant services to the  
250 purchaser, as defined in section 19a-630. The escrow agent shall pay  
251 such bills not later than thirty days after receipt. Such bills shall not  
252 exceed two hundred thousand dollars per application. The provisions  
253 of chapter 57, sections 4-212 to 4-219, inclusive, and section 4e-19 shall  
254 not apply to any agreement executed pursuant to this subsection.

255 Sec. 7. Subsection (a) of section 19a-653 of the general statutes is  
256 repealed and the following is substituted in lieu thereof (*Effective July*  
257 *1, 2018*):

258 (a) [Any] The Department of Public Health may impose a civil  
259 penalty of up to one thousand dollars per day on any person or health  
260 care facility or institution that [is required] fails to (1) file a certificate  
261 of need for any of the activities described in section 19a-638, [and any  
262 person or health care facility or institution that is required to] for each  
263 day such activities are conducted without certificate of need approval,  
264 (2) file data or information under any public or special act or under  
265 this chapter or sections 19a-486 to 19a-486h, inclusive, or any  
266 regulation adopted or order issued under this chapter or said sections  
267 [, which wilfully fails to seek certificate of need approval for any of the  
268 activities described in section 19a-638 or to so file within prescribed  
269 time periods, shall be subject to a civil penalty of up to one thousand  
270 dollars a day for each day such person or health care facility or  
271 institution conducts any of the described activities without certificate  
272 of need approval as required by section 19a-638 or for each day such  
273 information is missing, incomplete or inaccurate] within the prescribed  
274 time periods, for each day such data or information is missing,  
275 incomplete or inaccurate, or (3) comply with a condition in accordance  
276 with subdivision (5) of subsection (d) of section 19a-639, as amended

277 by this act, for each day such condition is breached. Any civil penalty  
278 authorized by this section shall be imposed by the Department of  
279 Public Health in accordance with subsections (b) to (e), inclusive, of  
280 this section.

281 Sec. 8. Subsection (a) of section 19a-486d of the general statutes is  
282 repealed and the following is substituted in lieu thereof (*Effective July*  
283 *1, 2018*):

284 (a) The commissioner shall deny an application filed pursuant to  
285 subsection (d) of section 19a-486a unless the commissioner finds that:  
286 (1) In a situation where the asset or operation to be transferred  
287 provides or has provided health care services to the uninsured or  
288 underinsured, the purchaser has made a commitment to provide  
289 health care to the uninsured and the underinsured; (2) in a situation  
290 where health care providers or insurers will be offered the opportunity  
291 to invest or own an interest in the purchaser or an entity related to the  
292 purchaser safeguard procedures are in place to avoid a conflict of  
293 interest in patient referral; and (3) certificate of need authorization is  
294 justified in accordance with chapter 368z. The commissioner may  
295 contract with any person, including, but not limited to, financial or  
296 actuarial experts or consultants, or legal experts with the approval of  
297 the Attorney General, to assist in reviewing the completed application.  
298 The commissioner shall submit any bills for such contracts to the  
299 purchaser. Such bills shall not exceed one hundred fifty thousand  
300 dollars. [The purchaser] Upon the filing of an application pursuant to  
301 subsection (d) of section 19a-486a, the purchaser shall establish an  
302 escrow account pursuant to a formal escrow agreement provided by  
303 the Office of Health Care Access for the purpose of paying bills for  
304 services rendered by the expert or consultant. The purchaser shall  
305 initially fund the escrow account with one hundred fifty thousand  
306 dollars. The escrow agent shall pay such bills [no] out of the escrow  
307 account directly to the expert or consultant not later than thirty days  
308 after the date of receipt of such bills.

309 Sec. 9. Subsections (g) to (i), inclusive, of section 19a-486i of the 2018

310 supplement to the general statutes are repealed and the following is  
311 substituted in lieu thereof (*Effective from passage*):

312 (g) Not later than January 15, [2018] 2019, and annually thereafter,  
313 each hospital and hospital system shall file with the Attorney General  
314 and the Commissioner of Public Health a written report describing the  
315 activities of the group practices owned or affiliated with such hospital  
316 or hospital system. Such report shall include, for each such group  
317 practice: (1) A description of the nature of the relationship between the  
318 hospital or hospital system and the group practice; (2) the names and  
319 specialties of each physician practicing medicine with the group  
320 practice; (3) the names of the business entities that provide services as  
321 part of the group practice and the address for each location where such  
322 services are provided; (4) a description of the services provided at each  
323 such location; and (5) the primary service area served by each such  
324 location.

325 (h) Not later than January 15, [2018] 2019, and annually thereafter,  
326 each group practice comprised of thirty or more physicians that is not  
327 the subject of a report filed under subsection (g) of this section shall file  
328 with the Attorney General and the Commissioner of Public Health a  
329 written report concerning the group practice. Such report shall include,  
330 for each such group practice: (1) The names and specialties of each  
331 physician practicing medicine with the group practice; (2) the names of  
332 the business entities that provide services as part of the group practice  
333 and the address for each location where such services are provided; (3)  
334 a description of the services provided at each such location; and (4) the  
335 primary service area served by each such location.

336 (i) Not later than January 15, [2018] 2019, and annually thereafter,  
337 each hospital and hospital system shall file with the Attorney General  
338 and the Commissioner of Public Health a written report describing  
339 each affiliation with another hospital or hospital system. Such report  
340 shall include: (1) The name and address of each party to the affiliation;  
341 (2) a description of the nature of the relationship among the parties to  
342 the affiliation; (3) the names of the business entities that provide

343 services as part of the affiliation and the address for each location  
 344 where such services are provided; (4) a description of the services  
 345 provided at each such location; and (5) the primary service area served  
 346 by each such location.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2018</i>	19a-639a
Sec. 2	<i>July 1, 2018</i>	19a-681
Sec. 3	<i>from passage</i>	19a-654(f)
Sec. 4	<i>July 1, 2018</i>	19a-639(d)(5)
Sec. 5	<i>July 1, 2018</i>	19a-639(e)
Sec. 6	<i>July 1, 2018</i>	19a-639f(j)
Sec. 7	<i>July 1, 2018</i>	19a-653(a)
Sec. 8	<i>July 1, 2018</i>	19a-486d(a)
Sec. 9	<i>from passage</i>	19a-486i(g) to (i)

**Statement of Purpose:**

To implement the recommendations of the Department of Public Health regarding revisions to the Office of Health Care Access statutes.

*[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.]*