

Certificate of Need Waivers During COVID-19 Public Health Emergency

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Issue

Briefly summarize the Office of Health Strategy's certificate of need (CON) waiver process during the COVID-19 public health emergency.

Summary

In March, the governor issued an executive order authorizing the Office of Health Strategy (OHS) executive director to waive various laws, including CON laws, to the extent needed to ensure that adequate health care resources and facilities are available to respond to the COVID-19 pandemic ([Executive Order 7B](#), § 7, Mar. 14, 2020).

Since then, OHS has issued several guidance [documents](#) regarding the CON process and waivers from statutory and regulatory requirements. These waivers (whether those requiring approval or notification as described below) are effective only during the public health emergency.

Collectively, these guidance documents currently provide as follows:

- In order to diagnose and treat COVID-19 patients, hospitals and outpatient surgical facilities may temporarily increase their licensed bed capacity or suspend (but not terminate) other

Connecticut's Certificate of Need Law

Under Connecticut law, hospitals and certain other health care facilities generally must receive a certificate of need from the Office of Health Strategy before (1) establishing new facilities or services, (2) changing ownership, (3) acquiring certain equipment, or (4) terminating certain services.

The Department of Social Services operates a separate CON program for nursing homes and certain other long-term care facilities (which is not discussed in this report).

services without requesting permission to do so. However, these facilities must submit a [notification form](#) to OHS ([OHS_HSP Guidance 20-003](#), Mar. 25, 2020, and [OHS_HSP Guidance 20-003b](#), Mar. 31, 2020).

- Otherwise, health care facilities covered by the CON law may apply to OHS for a waiver from CON requirements for transactions intended to increase access to critical health care services to manage the COVID-19 public health emergency. Waiver applicants must complete a [form](#) and take other specified administrative steps. Among other required information, applicants must describe how their proposal will support or enhance the state's ability to manage the public health emergency. Unlike the standard CON application process, there is no fee for a waiver request ([OHS_HSP Guidance 20-001](#), Mar. 16, 2020, and [OHS_HSP Guidance 20-002](#), Mar. 20, 2020).
- Until further notice, if the OHS executive director determines it is necessary to hold a public hearing for any CON application, the hearing will be held remotely ([OHS_HSP Guidance 20-001](#)).

To date, according to the OHS [Con Portal](#) and [Notifications Portal](#):

- 10 facilities have notified OHS of a temporary increase in licensed bed capacity (some have done so multiple times).
- Five facilities have notified OHS of a temporary suspension of a service.
- Eight facilities have requested a CON waiver; OHS has approved five applications and denied three.

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