

# Public Health Committee JOINT FAVORABLE REPORT

**Bill No.:** HB-5316

AN ACT CONCERNING THE OFFICE OF HEALTH STRATEGY'S  
RECOMMENDATIONS REGARDING THE CERTIFICATE OF NEED

**Title:** PROGRAM.

**Vote Date:** 3/20/2024

**Vote Action:** Joint Favorable

**PH Date:** 3/18/2024

**File No.:** 327

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## **SPONSORS OF BILL:**

The Public Health Committee

## **REASONS FOR BILL:**

The bill reforms the Certificate of Need process (CON) for health care facilities that are administered by OHS' Health Systems Planning Unit (HSPU). The bill adds "large group practice" and "group practice" as statutory definitions. Starting January 15<sup>th</sup>, 2025, group practices of eight or more physicians, including those working under a professional service agreement (PSA) are to annually report on the group practice to the Office of the Attorney General (OAG) and the Office of Health Strategy (OHS) aligning the reporting requirements in two separate statutes. A CON will be required for an ownership transfer and the acquisition of a proton radiotherapy machine. The bill will temporarily require the HSPU, until December 31<sup>st</sup>, 2025, to automatically grant a CON to any ownership transfer of two or more physicians organized as a partnership not employed by, or affiliated with, a hospital or similar entity. The bill also removes a provision providing a presumption in favor of approving CON application for an ownership transfer when the offer to buy the practice was made in response to a request for proposal or similar voluntary offer for sale.

## **RESPONSE FROM ADMINISTRATION/AGENCY:**

### **Martin Looney, Senator (11<sup>th</sup> District), Connecticut General Assembly:**

The Senator favors removing "the presumption in favor of approval" for practice acquisitions as it would create better oversight. He supports lowering the size of the practice that would trigger a CON process. His language suggestions will increase oversight by decreasing the size of practices that must report their information.

**Deidre S. Gifford, MD, MPH, Executive Director, Office of Health Strategy:**

There has been a significant increase in private equity ownership of group practices and this legislation builds upon SB 9 which closes loopholes in the CON process. Under current statute, transactions involving large group or group practice ownership are not reviewed. There are multiple levels of a corporate entity that can structure the transaction to avoid review of a transfer of ownership. The inclusion of physicians working under a PSA was made by the Physician Practice Workgroup which could allow for large group or group practices to go around the CON process by claiming fewer employees. This bill will also reconcile data reporting practices within the statutes and includes physicians working under a PSA. The language modifies the scope of a transfer of ownership of a large group practice to any person which builds upon the Governor's proposal to expand the definition of person to include public company and entity. The implementation of expanded transfer of ownership reviews of large group practices would be delayed until 2026 to allow for a monitoring period. Currently, we don't know how many transactions are occurring. Transfer of ownership CON applications will be automatically approved through December 31<sup>st</sup>, 2025, and this will allow OHS to track the number of transfers while minimizing administrative burden on applicants and providing time for OHS to determine necessary resources. This bill will enhance scrutiny for transfers of ownership as it removes a presumption in favor of approving a CON for transfer of ownership when the offer to buy the practice was made in response to a request for proposal or similar voluntary offer for sale. This bill is intended to supplement the proposed changes in SB 9.

**NATURE AND SOURCES OF SUPPORT:**

None Expressed

**NATURE AND SOURCES OF OPPOSITION:**

**The Connecticut Hospital Association (CHA):**

CHA opposes the bill as it increases the scope of CON which puts more pressure and weight on the regulatory process. The addition of physicians working under a PSA, which often takes months or often years, would be too onerous as it would require approval for a PSA between a person and an entity. That could mean that a simple contract with a physician and their group to provide education and quality improvement programs would have to go through the CON process. This bill also includes an exemption allowing the acquisition of physician practices by entities other than hospitals, including private equity entities, to avoid going through the CON process. CHA opposes this since it would create an unequal playing field with a bias in favor of private equity and for-profit entities.

**The Connecticut State Medical Society (CSMS):**

CSMS opposes the legislation as it fails to define "professional service agreement" and parties involved in such an agreement. CSMS is also opposed to the lower reporting requirement threshold as well as including groups working under a PSA. This would add another bureaucratic layer that would burden physicians without clear benefits and divert resources away from patient care. Making a CON necessary for the transfer of ownership of any large group practice to any entity, no matter the size, introduces unnecessary regulatory hurdles. Changing the definition of large group would essentially strip large group practices of the equity that the physicians have worked diligently to build. The outcome of this legislation is that group practices will likely dissolve their existing practices and then work for a hospital

system or medical foundation. CSMS believes it is crucial to delve into the underlying reasons why Connecticut's small, independent practices face challenges and address the root causes. CSMS also raises doubts about automatically approving a CON for a certain period. If this exemption is the case, it raises doubts about the necessity for this burdensome process in the first place.

**Dinesh Kapur, Physician, ECHO Associates:**

Dr. Kapur believes that the strict requirements in this bill are rooted in the incorrect assumption that medical practices getting support with partnerships from management service organizations (MSO) is harming health care deliver in the state. His practice partnered with an MSO that allowed them to continue treating patients through the COVID pandemic. Recently, due to this partnership his practice has been able to access medication for cancers despite a current nation-wide shortage. They have also been able to rapidly increase access to clinical trials for patients and were able to offer care to patients from big health systems by efficiently opening these personalized trials. This investment allowed our patients to come to our practice instead of a hospital at a significant savings to the patient. Dr. Kapur also notes that all clinical decisions remain exclusively with him and the other physicians in his practice and they have full clinical autonomy and clinical judgement. Dr. Kapur would like to have the issues in this bill studied further instead of rushing to change the CON process.

**Others in Opposition:**

Vincent Capece, President and CEO, Middlesex Health  
Joseph Cappa, Physician, Connecticut GI  
David Hergan, Physician-Orthopedic, Neuro Specialists  
Jeffry Nestler, President, CT Independent Physician Association  
Michelle Robertson, COO, Nuvance Health  
Kathleen Silard, President and CEO, Stamford Health  
Deborah Weymouth, President and CEO, Prospect CT- Inc.

**Reported by: Piotr Kolakowski**

**Date: 3/26/2024**