

Public Health Committee JOINT FAVORABLE REPORT

Bill No.: HB-5319

AN ACT REQUIRING A PLAN CONCERNING PRIVATE EQUITY FIRMS
ACQUIRING OR HOLDING AN OWNERSHIP INTEREST IN HEALTH CARE

Title: FACILITIES.

Vote Date: 3/22/2024

Vote Action: Joint Favorable

PH Date: 3/6/2024

File No.:

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SPONSORS OF BILL:

The Public Health Committee

REASONS FOR BILL:

This bill requires the Office of Health Strategy (OHS) to develop a plan regarding private equity firms acquiring or holding an ownership interest in Department of Public Health (DPH)-licensed health care facilities. The plan will need to assess whether a Certificate of need (CON) is required when a firm acquires these interests as well as the feasibility of other limitations. The study also provides recommendations for requiring facilities to disclose that they have such an ownership interest in their health care facility. The OHS executive director must report to the Public Health Committee on the plan and any related recommendations by January 1st, 2025.

RESPONSE FROM ADMINISTRATION/AGENCY:

Martin Looney, Senator (11th District), Connecticut General Assembly:

Senator Looney is working with Attorney General Tong on language to strengthen oversight of acquisitions and mergers of health care facilities and physician practices including those involving private equity.

Deidre S. Gifford, MD, MPH, Executive Director, Office of Health Strategy (OHS):

OHS believes that SB 9 addresses many of the issues OHS will be assigned to evaluate. This bill focuses on specific entities while the Governor's bill focuses on specific potentially harmful practices that could be more frequently used by private equity. The provisions in SB 9 would allow for a broader review of transfer of ownership and expands the definition of "person" which would include such entities. OHS' other proposed bill is HB 5316 and this bill

along with SB 9 addresses many of the same issues that HB 5319 is trying to evaluate. OHS supports passing SB 9 and HB 5316 which would meet the objectives of this bill.

Sean King, Acting Healthcare Advocate, OHA:

OHA would like to see section 4 of the bill amended to address two new circumstances in which a CON must be issued by OHS. This would be when a hospital proposes to transfer ten percent or more of its assets, including real estate, and when a hospital proposes to issue dividends more than twenty percent of its net worth over a three-year period. It has been reported that many transactions are structured to fall beneath existing reporting thresholds. These new thresholds appear to be easy to manipulate and should be addressed. As well as lines 323-330 which creates a temporary but significant exemption for large group practices regarding the CON process and OHA questions the need for the exemption.

Mairead Painter, State Long Term Care Ombudsman, LTCOP:

Recent research by JAMA health forum and the National Bureau of Economic Research (NBER) highlight increased rates of preventable hospital visits and hospitalizations, higher excess mortality rates, escalated prescription of antipsychotic drugs, decreased frontline nursing staff hours, and elevated taxpayer spending per resident in private equity-owned nursing homes compared to their counterparts. Also, a case study in New Jersey in 2020 revealed a 30% higher infection rate and a 40% higher death rate in private equity backed nursing homes compared to statewide averages.

NATURE AND SOURCES OF SUPPORT:

The Connecticut Hospital Association (CHA):

CHA would like the bill to be amended to require public and stakeholder participation with the opportunity to provide comment throughout the process.

The Connecticut State Medical Society (CSMS):

The selling of a practice to private equity leads to moral injury in which the physician is left feeling that they have compromised patient care as well as their soul. Private equity firms often implement cost-cutting measures to improve profitability. The investors in these firms have a shorter investment horizon which creates pressure to generate quick returns potentially compromising long-term strategic decisions in the healthcare organizations. The profit driven nature of private equity may conflict with the mission of healthcare providers and involves significant debt financing that can strain the financial stability and impact patient services for the healthcare facility. Healthcare is heavily regulated and private equity firms may lack the experience navigating the regulations and cost-cutting measures can lead to layoffs which leads to workforce issues. When private equity acquires a healthcare facility there is a risk of closures or service reductions as healthcare markets are unpredictable. Decisions driven solely by financial gain may not align with patient needs as several recent and notable failures of these investments suggest. They may be poorly designed to serve those goals.

Others in Support:

Liz Diehl, Associate Director, CCAG

Eric Schwaber, Internal Medicine Physician

Kathleen Silard, President and CEO, Stamford Health

NATURE AND SOURCES OF OPPOSITION:

Dawn Holcombe, Executive Director, Connecticut Oncology Association:

Passing this bill could have the opposite effect intended by the Governor and members of the CGA for both patients and their care givers in Connecticut. Private equity firms are defined as those who use their own capital or capital raised from investors to acquire a majority stake in a company, increase the revenue and margins of the company, and later, take the company public or sell it at a profit. In this bill health care facilities are defined as an institution but referencing section 19a-490 of the general statutes is so broad that it includes 16 different kinds of possible health care facilities. The concern is that the definition of private equity firm and healthcare facilities is too broad. A study showed that mean per patient per month chemotherapy cost was 41% lower in community settings than in hospital settings as well as 38% lower for treatments. Private practice providers have been increasingly acquired by CT hospital-based systems. Most remaining private practice providers are medically aligned partnerships of like-minded private practices and not predatory private equity firms. Adding CON requirements to alignments and initiatives between private community medical practices and like-minded physician networks would create a burden to an already fragile medical environment. The Association would like this bill amended to avoid intrusion into private practice facilities and exclude CON burdens for any community private practice facility related to ownership or operational alignments with medical networks. In addition, our Association would respectfully request redefining "private equity firm" to recognize and exclude the private practice network alignments. We would request grandfathering existing private practice affiliations and providing an exemption from any burdens placed upon these alignments as the result of this bill, as well as including both patients and community providers in any panel or study of private equity activities in CT.

Reported by: Piotr Kolakowski

Date: 3/27/2024