



General Assembly

Amendment

February Session, 2024

LCO No. 5852



Offered by:

SEN. FAZIO, 36th Dist.

SEN. GORDON, 35th Dist.

To: Subst. Senate Bill No. 9

File No. 381

Cal. No. 243

(As Amended)

"AN ACT PROMOTING HOSPITAL FINANCIAL STABILITY."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 19a-638 of the 2024 supplement to the general
4 statutes is repealed and the following is substituted in lieu thereof
5 (*Effective October 1, 2024*):

6 (a) A certificate of need issued by the unit shall be required for:

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

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

9 (3) A transfer of ownership of a large group practice to any entity
10 other than a (A) physician, or (B) group of two or more physicians,
11 legally organized in a partnership, professional corporation or limited

12 liability company formed to render professional services and not
13 employed by or an affiliate of any hospital, medical foundation,
14 insurance company or other similar entity;

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

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

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

23 (7) The termination of surgical services by an outpatient surgical
24 facility, as defined in section 19a-493b, or a facility that provides
25 outpatient surgical services as part of the outpatient surgery department
26 of a short-term acute care general hospital, provided termination of
27 outpatient surgical services due to (A) insufficient patient volume, or (B)
28 the termination of any subspecialty surgical service, shall not require
29 certificate of need approval;

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

32 (9) The establishment of cardiac services, including inpatient and
33 outpatient cardiac catheterization, interventional cardiology and
34 cardiovascular surgery;

35 (10) The acquisition of computed tomography scanners, magnetic
36 resonance imaging scanners, positron emission tomography scanners or
37 positron emission tomography-computed tomography scanners, by any
38 person, physician, provider, short-term acute care general hospital or
39 children's hospital, except (A) as provided for in subdivision (22) of
40 subsection (b) of this section, and (B) a certificate of need issued by the
41 unit shall not be required where such scanner is a replacement for a

42 scanner that was previously acquired through certificate of need
43 approval or a certificate of need determination, including a replacement
44 scanner that has dual modalities or functionalities if the applicant
45 already offers similar imaging services for each of the scanner's
46 modalities or functionalities that will be utilized;

47 (11) The acquisition of nonhospital based linear accelerators, except a
48 certificate of need issued by the unit shall not be required where such
49 accelerator is a replacement for an accelerator that was previously
50 acquired through certificate of need approval or a certificate of need
51 determination;

52 (12) An increase in the licensed bed capacity of a health care facility,
53 except as provided in subdivision (23) or subparagraph (C) of
54 subdivision (26) of subsection (b) of this section;

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

57 (14) An increase of two or more operating rooms within any three-
58 year period, commencing on and after October 1, 2010, by an outpatient
59 surgical facility, as defined in section 19a-493b, or by a short-term acute
60 care general hospital; [and]

61 (15) The termination of inpatient or outpatient services offered by a
62 hospital or other facility or institution operated by the state that
63 provides services that are eligible for reimbursement under Title XVIII
64 or XIX of the federal Social Security Act, 42 USC 301, as amended from
65 time to time;

66 (16) The relocation of outpatient, behavioral health care, substance
67 use disorder, women's health care or emergency medical services
68 outside of the municipality in which such services are currently
69 provided;

70 (17) Any investment in a health care facility by a private equity
71 company in which the private equity company acquires at least a twenty

72 per cent controlling interest, either directly or indirectly, in a health care
73 facility, or otherwise obtains the ability to exercise operational control,
74 managerial control or decision-making authority over such facility; and

75 (18) A transfer of twenty per cent or more of the assets owned by a
76 hospital, including, but not limited to, a transfer of real estate to a third
77 party that is not related to the hospital through ownership, control or
78 affiliation.

79 (b) A certificate of need shall not be required for:

80 (1) Health care facilities owned and operated by the federal
81 government;

82 (2) The establishment of offices by a licensed private practitioner,
83 whether for individual or group practice, except when a certificate of
84 need is required in accordance with the requirements of section 19a-
85 493b or subdivision (3), (10) or (11) of subsection (a) of this section;

86 (3) A health care facility operated by a religious group that
87 exclusively relies upon spiritual means through prayer for healing;

88 (4) Residential care homes, as defined in subsection (c) of section 19a-
89 490, and nursing homes and rest homes, as defined in subsection (o) of
90 section 19a-490;

91 (5) An assisted living services agency, as defined in section 19a-490;

92 (6) Home health agencies, as defined in section 19a-490;

93 (7) Hospice services, as described in section 19a-122b;

94 (8) Outpatient rehabilitation facilities;

95 (9) Outpatient chronic dialysis services;

96 (10) Transplant services;

97 (11) Free clinics, as defined in section 19a-630;

98 (12) School-based health centers and expanded school health sites, as
99 such terms are defined in section 19a-6r, community health centers, as
100 defined in section 19a-490a, not-for-profit outpatient clinics licensed in
101 accordance with the provisions of chapter 368v and federally qualified
102 health centers;

103 (13) A program licensed or funded by the Department of Children
104 and Families, provided such program is not a psychiatric residential
105 treatment facility;

106 (14) Any nonprofit facility, institution or provider that has a contract
107 with, or is certified or licensed to provide a service for, a state agency or
108 department for a service that would otherwise require a certificate of
109 need. The provisions of this subdivision shall not apply to a short-term
110 acute care general hospital or children's hospital, or a hospital or other
111 facility or institution operated by the state that provides services that are
112 eligible for reimbursement under Title XVIII or XIX of the federal Social
113 Security Act, 42 USC 301, as amended;

114 (15) A health care facility operated by a nonprofit educational
115 institution exclusively for students, faculty and staff of such institution
116 and their dependents;

117 (16) An outpatient clinic or program operated exclusively by or
118 contracted to be operated exclusively by a municipality, municipal
119 agency, municipal board of education or a health district, as described
120 in section 19a-241;

121 (17) A residential facility for persons with intellectual disability
122 licensed pursuant to section 17a-227 and certified to participate in the
123 Title XIX Medicaid program as an intermediate care facility for
124 individuals with intellectual disabilities;

125 (18) Replacement of existing computed tomography scanners,
126 magnetic resonance imaging scanners, positron emission tomography
127 scanners, positron emission tomography-computed tomography
128 scanners, or nonhospital based linear accelerators, if such equipment

129 was acquired through certificate of need approval or a certificate of need
130 determination, provided a health care facility, provider, physician or
131 person notifies the unit of the date on which the equipment is replaced
132 and the disposition of the replaced equipment, including if a
133 replacement scanner has dual modalities or functionalities and the
134 applicant already offers similar imaging services for each of the
135 equipment's modalities or functionalities that will be utilized;

136 (19) Acquisition of cone-beam dental imaging equipment that is to be
137 used exclusively by a dentist licensed pursuant to chapter 379;

138 (20) The partial or total elimination of services provided by an
139 outpatient surgical facility, as defined in section 19a-493b, except as
140 provided in subdivision (6) of subsection (a) of this section and section
141 19a-639e;

142 (21) The termination of services for which the Department of Public
143 Health has requested the facility to relinquish its license;

144 (22) Acquisition of any equipment by any person that is to be used
145 exclusively for scientific research that is not conducted on humans;

146 (23) On or before June 30, 2026, an increase in the licensed bed
147 capacity of a mental health facility, provided (A) the mental health
148 facility demonstrates to the unit, in a form and manner prescribed by
149 the unit, that it accepts reimbursement for any covered benefit provided
150 to a covered individual under: (i) An individual or group health
151 insurance policy providing coverage of the type specified in
152 subdivisions (1), (2), (4), (11) and (12) of section 38a-469; (ii) a self-
153 insured employee welfare benefit plan established pursuant to the
154 federal Employee Retirement Income Security Act of 1974, as amended
155 from time to time; or (iii) HUSKY Health, as defined in section 17b-290,
156 and (B) if the mental health facility does not accept or stops accepting
157 reimbursement for any covered benefit provided to a covered
158 individual under a policy, plan or program described in clause (i), (ii) or
159 (iii) of subparagraph (A) of this subdivision, a certificate of need for such
160 increase in the licensed bed capacity shall be required; [.]

161 (24) The establishment at harm reduction centers through the pilot
162 program established pursuant to section 17a-673c; [or]

163 (25) On or before June 30, 2028, a birth center, as defined in section
164 19a-490, that is enrolled as a provider in the Connecticut medical
165 assistance program, as defined in section 17b-245g;

166 (26) On or before June 30, 2030, (A) the establishment or expansion of
167 diagnostic or therapeutic cardiac catheterization or cardiac surgery
168 units at a nonprofit hospital, psychiatric units, substance use disorder
169 units or rural health services, (B) upgrades to radiologic technology, (C)
170 an increase of behavioral health beds for children, (D) an increase in
171 capacity for existing services offered by a health care facility, and (E) an
172 increase in the number of operating rooms at a health care facility
173 existing on or before October 1, 2024; or

174 (27) The relocation of outpatient services within the municipality in
175 which such services are currently provided.

176 (c) (1) Any person, health care facility or institution that is unsure
177 whether a certificate of need is required under this section, or (2) any
178 health care facility that proposes to relocate pursuant to section 19a-
179 639c, shall send a letter to the unit that describes the project and requests
180 that the unit make a determination as to whether a certificate of need is
181 required. In the case of a relocation of a health care facility, the letter
182 shall include information described in section 19a-639c. A person, health
183 care facility or institution making such request shall provide the unit
184 with any information the unit requests as part of its determination
185 process. The unit shall provide a determination within thirty days of
186 receipt of such request.

187 (d) The executive director of the Office of Health Strategy may
188 implement policies and procedures necessary to administer the
189 provisions of this section while in the process of adopting such policies
190 and procedures as regulation, provided the executive director holds a
191 public hearing prior to implementing the policies and procedures and
192 posts notice of intent to adopt regulations on the office's Internet web

193 site and the eRegulations System not later than twenty days after the
194 date of implementation. Policies and procedures implemented pursuant
195 to this section shall be valid until the time final regulations are adopted.

196 (e) On or before June 30, 2026, a mental health facility seeking to
197 increase licensed bed capacity without applying for a certificate of need,
198 as permitted pursuant to subdivision (23) of subsection (b) of this
199 section, shall notify the Office of Health Strategy, in a form and manner
200 prescribed by the executive director of said office, regarding (1) such
201 facility's intent to increase licensed bed capacity, (2) the address of such
202 facility, and (3) a description of all services that are being or will be
203 provided at such facility.

204 (f) Not later than January 1, 2025, the executive director of the Office
205 of Health Strategy shall report to the Governor and, in accordance with
206 the provisions of section 11-4a, to the joint standing committee of the
207 General Assembly having cognizance of matters relating to public
208 health concerning the executive director's recommendations, if any,
209 regarding the establishment of an expedited certificate of need process
210 for mental health facilities.

211 Sec. 2. Section 19a-639a of the 2024 supplement to the general statutes
212 is repealed and the following is substituted in lieu thereof (*Effective*
213 *October 1, 2024*):

214 (a) An application for a certificate of need shall be filed with the unit
215 in accordance with the provisions of this section and any regulations
216 adopted by the Office of Health Strategy. The application shall address
217 the guidelines and principles set forth in (1) subsection (a) of section 19a-
218 639, and (2) regulations adopted by the department. The applicant shall
219 include with the application a nonrefundable application fee based on
220 the cost of the project. The amount of the fee shall be as follows: (A) One
221 thousand dollars for a project that will cost not greater than fifty
222 thousand dollars; (B) two thousand dollars for a project that will cost
223 greater than fifty thousand dollars but not greater than one hundred
224 thousand dollars; (C) three thousand dollars for a project that will cost

225 greater than one hundred thousand dollars but not greater than five
226 hundred thousand dollars; (D) four thousand dollars for a project that
227 will cost greater than five hundred thousand dollars but not greater than
228 one million dollars; (E) five thousand dollars for a project that will cost
229 greater than one million dollars but not greater than five million dollars;
230 (F) eight thousand dollars for a project that will cost greater than five
231 million dollars but not greater than ten million dollars; and (G) ten
232 thousand dollars for a project that will cost greater than ten million
233 dollars.

234 (b) Prior to the filing of a certificate of need application, the applicant
235 shall (1) publish notice that an application is to be submitted to the unit
236 (A) in a newspaper having a substantial circulation in the area where
237 the project is to be located, and (B) on the applicant's Internet web site
238 in a clear and conspicuous location that is easily accessible by members
239 of the public, (2) request the publication of notice (A) in at least two sites
240 within the affected community that are commonly accessed by the
241 public, such as a town hall or library, and (B) on any existing Internet
242 web site of the municipality or local health department, and (3) submit
243 such notice to the unit for posting on such unit's Internet web site. Such
244 newspaper notice shall be published for not less than three consecutive
245 days, with the final date of consecutive publication occurring not later
246 than twenty days prior to the date of filing of the certificate of need
247 application, and contain a brief description of the nature of the project
248 and the street address where the project is to be located. Postings in the
249 affected community and on the applicant's Internet web site shall
250 remain until the decision on the application is rendered. The unit shall
251 not invalidate any notice due to changes or removal of the notice from
252 a community Internet web site of which the applicant has no control. An
253 applicant shall file the certificate of need application with the unit not
254 later than ninety days after publishing notice of the application in a
255 newspaper in accordance with the provisions of this subsection. The
256 unit shall not accept the applicant's certificate of need application for
257 filing unless the application is accompanied by the application fee
258 prescribed in subsection (a) of this section and proof of compliance with

259 the publication requirements prescribed in this subsection. Prior to
260 submitting the certificate of need application, the applicant may request
261 an informational meeting with the unit to discuss the requirements of
262 the application process. The unit shall hold such informational meeting
263 with the applicant not later than one week after the date it receives the
264 applicant's request for an informational meeting.

265 (c) (1) Not later than five business days after receipt of a properly filed
266 certificate of need application, the unit shall publish notice of the
267 application on its Internet web site. Not later than thirty days after the
268 date of filing of the application, the unit may request such additional
269 information as the unit determines necessary to complete the
270 application. In addition to any information requested by the unit, if the
271 application involves the transfer of ownership of a hospital, as defined
272 in section 19a-639, the applicant shall submit to the unit (A) a plan
273 demonstrating how health care services will be provided by the new
274 hospital for the first three years following the transfer of ownership of
275 the hospital, including any consolidation, reduction, elimination or
276 expansion of existing services or introduction of new services, and (B)
277 the names of persons currently holding a position with the hospital to
278 be purchased or the purchaser, as defined in section 19a-639, as an
279 officer, director, board member or senior manager, whether or not such
280 person is expected to hold a position with the hospital after completion
281 of the transfer of ownership of the hospital and any salary, severance,
282 stock offering or any financial gain, current or deferred, such person is
283 expected to receive as a result of, or in relation to, the transfer of
284 ownership of the hospital.

285 (2) The applicant shall, not later than sixty days after the date of the
286 unit's request, submit any requested information and any information
287 required under this subsection to the unit. If an applicant fails to submit
288 such information to the unit within the sixty-day period, the unit shall
289 consider the application to have been withdrawn.

290 (3) The unit shall make reasonable efforts to limit the requests for
291 additional information to two such requests and, in all cases, cease all

292 requests for additional information not later than six months after
293 receiving the application.

294 (d) Upon deeming an application complete, the unit shall provide
295 notice of this determination to the applicant and to the public in
296 accordance with regulations adopted by the department. In addition,
297 the unit shall post such notice on its Internet web site and notify the
298 applicant not later than five days after deeming the application
299 complete. The date on which the unit posts such notice on its Internet
300 web site shall begin the review period. Except as provided in this
301 subsection, (1) the review period for an application deemed complete
302 shall be [~~ninety~~] thirty days from the date on which the unit posts such
303 notice on its Internet web site; and (2) the unit shall issue a decision on
304 an application deemed complete prior to the expiration of the [~~ninety-~~
305 day] thirty-day review period in matters without a public hearing. If the
306 unit does not issue a decision on an application deemed complete prior
307 to the expiration of the thirty-day review period in matters without a
308 public hearing, such application shall be deemed approved. The review
309 period for an application deemed complete that involves a transfer of a
310 large group practice, as described in subdivision (3) of subsection (a) of
311 section 19a-638, when the offer was made in response to a request for
312 proposal or similar voluntary offer for sale, shall be [~~sixty~~] twenty days
313 from the date on which the unit posts notice on its Internet web site.
314 Upon request or for good cause shown, the unit may extend the review
315 period for a period of time not to exceed [~~sixty~~] twenty days. If the
316 review period is extended, the unit shall issue a decision on the
317 completed application prior to the expiration of the extended review
318 period. If the unit holds a public hearing concerning a completed
319 application in accordance with subsection (e) or (f) of this section, the
320 unit shall issue a decision on the completed application not later than
321 [~~sixty~~] twenty days after the date the unit closes the public hearing
322 record. If the unit does not issue a decision on the completed
323 application, not later than twenty days after such date, the application
324 shall be deemed approved.

325 (e) Except as provided in this subsection, the unit shall hold a public

326 hearing on a properly filed and completed certificate of need application
327 if three or more individuals or an individual representing an entity with
328 five or more people submits a request, in writing, that a public hearing
329 be held on the application. For a properly filed and completed certificate
330 of need application involving a transfer of ownership of a large group
331 practice, as described in subdivision (3) of subsection (a) of section 19a-
332 638, when an offer was made in response to a request for proposal or
333 similar voluntary offer for sale, a public hearing shall be held if twenty-
334 five or more individuals or an individual representing twenty-five or
335 more people submits a request, in writing, that a public hearing be held
336 on the application. Any request for a public hearing shall be made to the
337 unit not later than [thirty] ten days after the date the unit deems the
338 application to be complete.

339 (f) (1) The unit shall hold a public hearing with respect to each
340 certificate of need application filed pursuant to section 19a-638, as
341 amended by this act, after December 1, 2015, that concerns any transfer
342 of ownership involving a hospital. Such hearing shall be held in the
343 municipality in which the hospital that is the subject of the application
344 is located.

345 (2) The unit may hold a public hearing with respect to any certificate
346 of need application submitted under this chapter. The unit shall provide
347 not less than [two weeks'] five days' advance notice to the applicant, in
348 writing, and to the public by publication in a newspaper having a
349 substantial circulation in the area served by the health care facility or
350 provider. In conducting its activities under this chapter, the unit may
351 hold hearings with respect to applications of a similar nature at the same
352 time. The applicant shall post a copy of the unit's hearing notice on the
353 applicant's Internet web site in a clear and conspicuous location that is
354 easily accessible by members of the public. Such applicant shall request
355 the publication of notice in at least two sites within the affected
356 community that are commonly accessed by the public, such as a town
357 hall or library, as well as on any existing Internet web site of the
358 municipality or local health department. The unit shall not invalidate
359 any notice due to changes or removal of the notice from a community

360 Internet web site of which the applicant has no control.

361 (g) An applicant may request an expedited timeline for determination
362 on a certificate of need application in a form and manner prescribed by
363 the unit. The unit shall develop a process for approving a request for an
364 expedited timeline. Notwithstanding the provisions of this section, if the
365 unit accepts a request for an expedited timeline, a determination shall
366 be made on the application not more than fourteen days after the date
367 the completed application is submitted to the unit.

368 ~~[(g)]~~ (h) For applications submitted on or after October 1, 2023, the
369 unit may retain an independent consultant with expertise in the specific
370 area of health care that is the subject of the application filed by an
371 applicant if the review and analysis of an application cannot reasonably
372 be conducted by the unit without the expertise of an industry analyst or
373 other actuarial consultant. The unit shall submit bills for independent
374 consultant services to the applicant. Such applicant shall pay such bills
375 not later than thirty days after receipt of such bills. Such bills shall be a
376 reasonable amount per application. The provisions of chapter 57 and
377 sections 4-212 to 4-219, inclusive, and 4e-19 shall not apply to any
378 retainer agreement executed pursuant to this subsection.

379 ~~[(h)]~~ (i) The executive director of the Office of Health Strategy may
380 implement policies and procedures necessary to administer the
381 provisions of this section while in the process of adopting such policies
382 and procedures as regulation, provided the executive director holds a
383 public hearing prior to implementing the policies and procedures and
384 posts notice of intent to adopt regulations on the office's Internet web
385 site and the eRegulations System not later than twenty days after the
386 date of implementation. Policies and procedures implemented pursuant
387 to this section shall be valid until the time final regulations are adopted.

388 Sec. 3. *(Effective from passage)* The executive director of the Office of
389 Health Strategy shall conduct a study regarding the certificate of need
390 process in the state. Such study shall include, but need not be limited to,
391 (1) an examination of the cost to health care systems resulting from

392 delays or inefficiencies in the certificate of need process, (2) not less than
 393 three public hearings convened by the executive director that allow
 394 providers, insurers, the public and other stakeholders to provide
 395 testimony regarding the certificate of need process, and (3) the
 396 development of recommendations to improve the certificate of need
 397 process by reducing delays, streamlining administrative processes and
 398 hiring trained, experienced staff in lieu of contracting with third-party
 399 experts. Not later than January 1, 2025, the executive director shall
 400 report, in accordance with the provisions of section 11-4a of the general
 401 statutes, to the joint standing committee of the General Assembly
 402 having cognizance of matters relating to public health regarding the
 403 results of such study."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2024</i>	19a-638
Sec. 2	<i>October 1, 2024</i>	19a-639a
Sec. 3	<i>from passage</i>	New section