House of Representatives

General Assembly

File No. 683

January Session, 2025

House Bill No. 7050

House of Representatives, April 14, 2025

The Committee on Public Health reported through REP. MCCARTHY VAHEY of the 133rd Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

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

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

Section 1. Section 19a-643 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2025*):

(a) The Office of Health Strategy shall adopt regulations, in accordance with the provisions of chapter 54, to carry out the provisions of sections 19a-630 to 19a-639e, inclusive, as amended by this act, and sections 19a-644 and 19a-645 concerning the submission of data by health care facilities and institutions, including data on dealings between health care facilities and institutions and their affiliates, and, with regard to requests or proposals pursuant to sections 19a-638 to 19a-639e, inclusive, as amended by this act, by state health care facilities and institutions, the ongoing inspections by the unit of operating budgets that have been approved by the health care facilities and institutions, standard reporting forms and standard accounting procedures to be

utilized by health care facilities and institutions and the transferability of line items in the approved operating budgets of the health care facilities and institutions, except that any health care facility or institution may transfer any amounts among items in its operating budget. All such transfers shall be reported to the unit not later than thirty days after the transfer or transfers.

(b) The **[**Office**]** Commissioner of Health Strategy may adopt such regulations, in accordance with the provisions of chapter 54, as are necessary to implement this chapter. The commissioner may implement policies and procedures necessary to administer the provisions of this section while in the process of adopting such policies and procedures as regulations, provided the commissioner holds a public hearing on such policies and procedures not less than thirty days before implementing such policies and procedures and publishes notice of intention to adopt regulations on the Office of Health Strategy's Internet web site and the eRegulations System not later than twenty days after implementing such policies and procedures. Policies and procedures implemented pursuant to this subsection shall be valid until the time final regulations are adopted in accordance with the provisions of chapter 54.

Sec. 2. Subdivision (15) of section 19a-630 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(15) "Termination of services" means the cessation of any services for (A) a **[**period**]** combined total of greater than one hundred eighty days within any consecutive two-year period, or (B) a period of thirty consecutive days or more.

Sec. 3. Subdivision (11) of subsection (a) of section 19a-638 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2025*):

(11) The acquisition of a proton radiotherapy machine or nonhospital based linear **[**accelerators**]** accelerator, except a certificate of need issued by the unit shall not be required where such machine or accelerator is a

replacement for [an] a machine or accelerator that was previously acquired through certificate of need approval or a certificate of need determination;

Sec. 4. Subsection (d) of section 19a-639 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2025*):

(d) (1) For purposes of this subsection and subsection (e) of this section:

(A) "Affected community" means a municipality where a hospital is physically located or a municipality whose inhabitants are regularly served by a hospital;

(B) "Hospital" has the same meaning as provided in section 19a-490;

(C) "New hospital" means a hospital as it exists after the approval of an agreement pursuant to section 19a-486b or a certificate of need application for a transfer of ownership of a hospital;

(D) "Purchaser" means a person who is acquiring, or has acquired, any assets of a hospital through a transfer of ownership of a hospital;

(E) "Transacting party" means a purchaser and any person who is a party to a proposed agreement for transfer of ownership of a hospital;

(F) "Transfer" means to sell, transfer, lease, exchange, option, convey, give or otherwise dispose of or transfer control over, including, but not limited to, transfer by way of merger or joint venture not in the ordinary course of business; and

(G) "Transfer of ownership of a hospital" means a transfer that impacts or changes the governance or controlling body of a hospital, including, but not limited to, all affiliations, mergers or any sale or transfer of net assets of a hospital and for which a certificate of need application or a certificate of need determination letter is filed on or after December 1, 2015.

(2) In any deliberations involving a certificate of need application filed pursuant to section 19a-638, as amended by this act, that involves the transfer of ownership of a hospital, the unit shall, in addition to the guidelines and principles set forth in subsection (a) of this section and those prescribed through regulation pursuant to subsection (c) of this section, take into consideration and make written findings concerning each of the following guidelines and principles:

(A) Whether the applicant fairly considered alternative proposals or offers in light of the purpose of maintaining health care provider diversity and consumer choice in the health care market and access to affordable quality health care for the affected community; and

(B) Whether the plan submitted pursuant to section 19a-639a, as amended by this act, demonstrates, in a manner consistent with this chapter, how health care services will be provided by the new hospital for the first three years following the transfer of ownership of the hospital, including any consolidation, reduction, elimination or expansion of existing services or introduction of new services.

(3) The unit shall deny any certificate of need application involving a transfer of ownership of a hospital unless the commissioner finds that the affected community will be assured of continued access to high quality and affordable health care after accounting for any proposed change impacting hospital staffing.

(4) The unit may deny any certificate of need application involving a transfer of ownership of a hospital subject to a cost and market impact review pursuant to section 19a-639f, as amended by this act, if the commissioner finds that (A) the affected community will not be assured of continued access to high quality and affordable health care after accounting for any consolidation in the hospital and health care market that may lessen health care provider diversity, consumer choice and access to care, and (B) any likely increases in the prices for health care services or total health care spending in the state may negatively impact the affordability of care.

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

(6) In any deliberations involving a certificate of need application filed pursuant to section 19a-638, as amended by this act, that involves the transfer of ownership of a hospital and is subject to a cost and market impact review, the unit may consider the preliminary report, response to the preliminary report, final report and any written comments from the parties regarding the reports issued or submitted as part of the review.

Sec. 5. Section 19a-639a of the general statutes is amended by adding subsection (i) as follows (*Effective July 1, 2025*):

(NEW) (i) (1) Notwithstanding the provisions of this section, the unit may develop and implement an expedited certificate of need review process for (A) certificate of need applications for (i) a service, facility or equipment identified as having a significant unmet need in the geographic region of the applicant in the most recently published final version of the state-wide health care facilities and services plan, established pursuant to section 19a-634, (ii) the acquisition of a computed tomography scanner or magnetic resonance imaging scanner, and (B) any other category of certificate of need application under subsection (a) of section 19a-638, as amended by this act, that the unit designates as eligible to request expedited review, provided the

applicant, pursuant to subdivision (2) of this subsection, (i) requests an expedited review of a certificate of need application, and (ii) clearly demonstrates that the subject of the application addresses a significant unmet need in the service area of the applicant. The unit shall issue a decision on any certificate of need application eligible for expedited review pursuant to the provisions of this subdivision not more than thirty days after the unit receives an applicant's complete certificate of need application.

(2) An expedited certificate of need applicant may request, in a form and manner prescribed by the Commissioner of Health Strategy, an expedited review of a certificate of need application pursuant to subparagraph (B) of subdivision (1) of this subsection. Such request shall include, but need not be limited to, (A) a description of the target population to be served by the subject of the certificate of need application, (B) a clear demonstration of a significant unmet need for the subject of the certificate of need application in the geographic region of the applicant based on patient demographics, diagnoses, utilization or other recent data, and (C) a description of the availability of the subject of the certificate of need application in the primary service area of the applicant. The unit shall determine whether an applicant who requests an expedited review pursuant to the provisions of this subdivision is eligible for such expedited review not more than thirty days after the date that the unit receives the applicant's request.

(3) Notwithstanding the provisions of this section, the expedited certificate of need review process established pursuant to the provisions of this subsection shall (A) allow the unit to resolve an expedited certificate of need application by (i) agreed settlement with the applicant, (ii) making a determination approving the expedited certificate of need application with or without conditions, or (iii) requiring the applicant to submit a certificate of need application pursuant to the provisions of subsections (a) to (f), inclusive, of this section, and (B) not require a public hearing on an expedited certificate of need application.

(4) If the unit requires an applicant to submit a certificate of need application pursuant to subparagraph (A)(iii) of subdivision (3) of this subsection, the unit shall (A) treat the expedited review application as a properly filed certificate of need application, (B) issue any request for additional information not later than thirty days after issuing a notice requiring an applicant to submit a certificate of need application pursuant to said subparagraph, and (C) follow the procedures described in subsections (c) to (g), inclusive, of this section.

(5) The expedited certificate of need review process established pursuant to the provisions of this subsection shall not be considered a contested case, as defined in section 4-166. The unit's decision on any expedited certificate of need application submitted pursuant to the provisions of this subsection shall not be considered a final decision, as defined in section 4-166.

Sec. 6. Subsection (j) of section 19a-639f of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2025*):

(j) The unit shall retain an independent consultant with expertise on the economic analysis of the health care market and health care costs and prices to conduct each cost and market impact review, as described in this section. The unit shall submit bills for such services to the purchaser, as defined in subsection (d) of section 19a-639, as amended by this act. Such purchaser shall pay such bills not later than thirty days after receipt. Such bills shall not exceed **[**two**]** three hundred thousand dollars per application. The provisions of chapter 57, sections 4-212 to 4-219, inclusive, and section 4e-19 shall not apply to any agreement executed pursuant to this subsection.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2025*	19a-643
Sec. 2	*from passage*	19a-630(15)
Sec. 3	*October 1, 2025*	19a-638(a)(11)

Sec. 4	*July 1, 2025*	19a-639(d)
Sec. 5	*July 1, 2025*	19a-639a(i)
Sec. 6	*October 1, 2025*	19a-639f(j)

PH *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The changes to the certificate of need program do not result in a fiscal impact for the Office of Health Strategy.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis

HB 7050

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

SUMMARY

This bill modifies the state's certificate of need (CON) program for health care entities administered by the Office of Health Strategy's (OHS's) Health Systems Planning Unit (HSPU). Under the program, health care entities must generally receive CON approval when establishing new facilities or services, changing ownership, acquiring certain equipment, or terminating certain services.

Principally, it:

1. allows the OHS commissioner to implement policies and procedures for the CON program while in the process of adopting them as regulations, under certain conditions (§ 1);

2. expands the definition of "termination of services" for CON purposes to include the termination of any services for a combined total of more than 180 days within a consecutive two-year period or 30 or more consecutive days (§ 2);

3. requires CON approval to acquire a proton radiotherapy machine, unless it is a replacement for a machine previously acquired through a CON (§ 3);

4. expressly authorizes HSPU, when reviewing CON applications for certain hospital ownership transfers that require a cost and market impact review (CMIR), to consider the CMIR preliminary and final reports and other specified related materials (§ 4);

5. increases, from $200,000 to $300,000, the maximum amount HSPU may charge an applicant for the cost of the independent consultant that conducts the CMIR (§ 6); and

6. allows HSPU to implement an expedited CON review process for, among other things, applications for services, facilities, or equipment that address an unmet need in the applicant's geographic area and sets related requirements (§ 5).

EFFECTIVE DATE: October 1, 2025, except that the provisions on (1) the review of CMIR reports and an expedited CON review process take effect July 1, 2025, and (2) the definition of "termination of services" takes effect upon passage.

§ 1 — AUTHORITY TO IMPLEMENT POLICIES AND PROCEDURES

The bill allows the OHS commissioner to adopt policies and procedures on the CON program while in the process of adopting them as regulations. The commissioner may do so only if she (1) holds a public hearing at least 30 days before implementing the policies and procedures and (2) publishes notice of her intent to adopt regulations on the OHS website and e-Regulations system within 20 days after implementing the policies and procedures, which are valid until the final regulations are adopted.

§§ 2 & 3 — TRANSACTIONS REQUIRING CON APPROVAL

By law, health care institutions must generally receive approval from HSPU when establishing new facilities or services, changing ownership, acquiring certain equipment, or terminating services.

The bill adds to the types of transactions that require CON approval acquiring a proton radiotherapy machine, unless it is replacing a machine acquired through a CON. (This device uses high-energy proton beams instead of x-ray beams to treat cancer.)

The bill also expands the statutory definition of "termination of services" for purposes of the CON program. Specifically, the bill requires CON approval when terminating a service for either (1) a

combined total of more than 180 days within a consecutive two-year period or (2) at least 30 consecutive days. Under current law, CON approval is needed when terminating services for more than 180 days.

§ 5 — EXPEDITED CON REVIEW PROCESS FOR CERTAIN APPLICATIONS

Regardless of existing CON laws, the bill allows HSPU to develop and implement an expedited CON process for the following applications:

1. for a service, facility, or equipment identified as having a significant unmet need in the applicant's geographic region in the most recent Statewide Health Care Facilities and Services Plan;

2. acquiring a computed tomography (CT) or magnetic resonance imaging (MRI) scanner; and

3. any other application categories HSPU designates as eligible to request an expedited review, so long as the applicant requests it and clearly demonstrates the proposal addresses a significant unmet need in the applicant's service area.

An applicant's request for an expedited review must (1) describe the target population the proposal will serve; (2) clearly demonstrate a significant unmet need for the proposal in the applicant's geographic region based on patient demographics, diagnoses, utilization, or other recent data; and (3) describe the availability of the proposed service, facility, or equipment in the applicant's primary service area.

Under the bill, HSPU must determine whether an applicant is eligible for expedited review within 30 days after receiving a request and issue a decision on the application within 30 days after receiving a complete application.

The bill requires the expedited review process to allow HSPU to (1) resolve an application by entering into an agreed settlement, approving it (with or without conditions), or requiring the applicant to go through the normal CON process and (2) not require a public hearing on an

application.

If HSPU requires an applicant to apply through the normal CON process it must (1) treat the expedited review application as a properly filed CON application, (2) issue any request for additional information within 30 days after notifying the applicant that they must use the normal CON process, and (3) follow the procedures under existing law to complete the review.

Under the bill, the expedited CON review process is not considered a contested case under the Uniform Administrative Procedure Act (UAPA) and HSPU's decision on an expedited application is not considered a final decision under the UAPA.

§§ 4 & 6 — CMIRS AND INDEPENDENT CONSULTANT FEES

Existing law requires the state to conduct a CMIR of CON applications that propose to transfer a hospital's ownership if the purchaser is (1) an in- or out-of-state hospital or a hospital system that had net patient revenue exceeding $1.5 billion for fiscal year 2013 or (2) organized or operated for profit. An independent consultant that OHS retains conducts the review, at the applicant's expense.

The bill expressly authorizes HSPU, when reviewing these CON applications, to consider the CMIR preliminary report and the response to it, the final report, and the parties' written comments on the report.

It also increases, from $200,000 to $300,000, the maximum amount HSPU may charge an applicant for the cost of the independent consultant conducting the CMIR.

BACKGROUND

Related Bill

SB 1539 (File 431), favorably reported by the Public Health Committee, makes various changes to the CON program, such as (1) requiring CON approval for certain private equity acquisitions, (2) requiring OHS to create an expedited CON review process for applications to increase bed capacity, (3) prohibiting HSPU from

granting a request for intervenor status in public hearings involving group practices, and (4) requiring HSPU to deny an application to terminate a hospital's labor and delivery services unless other services are available within a 25 mile radius.

COMMITTEE ACTION

Public Health Committee

Joint Favorable
Yea 21 Nay 10 (03/27/2025)