

Governor's CON Taskforce

Working Group C

Update

Friday, December 2, 2022

Members:

- John Brady
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Questions/Topics

Enacting higher penalties for noncompliance and increasing the staff needed for enforcement.

The Attorney General's authority to stop activities as the result of a certificate of need application or complaint

The ability of representatives of the workforce and the community to intervene or appeal decisions.

Working Group C - Preliminary Recommendations

Enacting higher penalties for noncompliance and increasing the staff needed for enforcement.

- While there has been some discussion on the effectiveness of fines as a deterrent and/or compliance tool, there has been more consensus that fines do have a role to play in this process. However, once a fine is determined there needs to be more clarity about when they begin and end. For example, if a hospital is fined for noncompliance, why would the fine be suspended during the subsequent CON request process while the hospital continues the original finable offense?
- The Working Group learned about how Massachusetts separated the Closure of Essential Services from the other types of CON requests, making the latter much easier and faster to process. In this model, the Closure of Essential Services process is handled by a different department within the state who can focus more on the impact of closures. This separation seems to have also sped up the Closure request process. Would like to further explore this approach. Seems that all parties would benefit from some parts of this type of division of requests, as well as more clarity as to what would be considered “Essential Services.”
- OHS has communicated to the committee that they are not adequately staffed for enforcement and are in need of more resources for that purpose.
- OHS has communicated that it would be helpful to their work for the legislature to more clearly define a number of terms such as: Inpatient, Outpatient, Transfer of Ownership, to name a few.

Working Group C - Preliminary Recommendations

The Attorney General's authority to stop activities as the result of a certificate of need application or complaint.

- The committee has been educated about the role of the Attorney General's Office on behalf of OHS and offices via §19a-642 entitled *Judicial Enforcement*. This includes the authority to enforce OHS CON orders and/or rulings.
- Currently there is no specific role of the Attorney General in the CON process (unless it is a conversion to a for-profit institution).
- The group has yet to come to consensus or make any recommendations about how and when the Attorney General's office could or should be involved if the office's current role was to be expanded by legislative action. Examples of a question raised include: In the case of a suspension or termination of a services has a significant impact on racial and ethnic health disparities?

Working Group C - Preliminary Recommendations

The ability of representatives of the workforce and the community to intervene or appeal decisions.

- The committee has been educated on *CT State Statute §4-117a & §4-177c C* that describes the broad authority of all hearing officers across all state department to grant intervenor status and different levels of intervenor's participation (such as whether an intervenor has the right to cross examination the applicant, etc.)
- At this time, there seems to be some consensus by the working group that this process works well.