

Senate, April 2, 1998. The Committee on Public Health reported through SEN. HARP, 10th DIST., Chairman of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT EXTENDING CERTIFICATE OF NEED REQUIREMENTS TO HEALTH MAINTENANCE ORGANIZATIONS.

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

1 Section 1. Subsection (a) of section 19a-638
2 of the general statutes is repealed and the
3 following is substituted in lieu thereof:
4 (a) (1) Any health care facility or
5 institution, as defined in subsection (a) of
6 section 19a-490, which intends to transfer all or
7 part of its ownership or control prior to being
8 initially licensed, except a home health agency,
9 nursing home, residential care home, rest home or
10 residential facility for the mentally retarded
11 licensed pursuant to section 17a-227 and certified
12 to participate in the Title XIX Medicaid program
13 as an intermediate care facility for the mentally
14 retarded, shall submit to the office, prior to the
15 proposed date of such transfer and in accordance
16 with any schedule established by the office
17 pursuant to subsection (c) of this section, a
18 request for permission to undertake such transfer.
19 (2) Any health care facility or institution or any
20 state health care facility or institution,
21 including any inpatient rehabilitation facility
22 affiliated with the Easter Seal Society of
23 Connecticut, Inc., but excluding a home health

24 agency, nursing home, residential care home, rest
25 home or residential facility for the mentally
26 retarded licensed pursuant to section 17a-227 and
27 certified to participate in the Title XIX Medicaid
28 program as an intermediate care facility for the
29 mentally retarded, which intends to introduce any
30 additional function or service into its program of
31 health care, except a program of ambulatory
32 services established and conducted by [a health
33 maintenance organization or] any outpatient
34 rehabilitation facility affiliated with the Easter
35 Seal Society of Connecticut, Inc., shall submit to
36 the office, prior to the proposed date of the
37 institution of such function or service or
38 increase in staff and in accordance with any
39 schedule established by the office pursuant to
40 subsection (c) of this section, a request for
41 permission to undertake such function or service
42 or increase its staff. (3) Any health care
43 facility or institution or any state health care
44 facility or institution except a home health
45 agency, nursing home, residential care home, rest
46 home or residential facility for the mentally
47 retarded licensed pursuant to section 17a-227 and
48 certified to participate in the Title XIX Medicaid
49 program as an intermediate care facility for the
50 mentally retarded, which intends to terminate a
51 health service offered by such facility or
52 institution or decrease substantially its total
53 bed capacity, shall submit to the office, prior to
54 the proposed date of such termination or decrease
55 and in accordance with any schedule established by
56 the office pursuant to subsection (c) of this
57 section, a request to undertake such termination
58 or decrease. (4) An applicant, prior to submitting
59 a certificate of need application, shall request
60 in writing, application forms and instructions
61 from the office. The request shall be known as a
62 letter of intent. A letter of intent shall
63 include: (A) The name of the applicant or
64 applicants; (B) a statement indicating whether the
65 application is for a new facility, service or
66 function, expansion of an existing facility,
67 service or function and any new or additional beds
68 and their type; (C) the estimated capital cost;
69 (D) the town where the project will be located;
70 and (E) a brief description of the proposed
71 project. No certificate of need application will

72 be considered filed with the office unless a
73 current letter of intent, specific to the proposal
74 and in accordance with this subsection, has been
75 on file with the office at least ninety days. A
76 current letter of intent is a letter of intent
77 which has been on file at the office no more than
78 one hundred twenty days.

79 Sec. 2. Subsection (a) of section 19a-639 of
80 the general statutes, as amended by public act
81 97-159, is repealed and the following is
82 substituted in lieu thereof:

83 (a) Except for [(1) a program of ambulatory
84 services established and conducted by a health
85 maintenance organization, (2)] (1) any outpatient
86 rehabilitation facility affiliated with the Easter
87 Seal Society of Connecticut, Inc., [(3)] (2) a
88 home health agency or [(4)] (3) a nursing home,
89 residential care home, rest home or residential
90 facility for the mentally retarded licensed
91 pursuant to section 17a-227 and certified to
92 participate in the Title XIX Medicaid program as
93 an intermediate care facility for the mentally
94 retarded, any inpatient rehabilitation facility
95 affiliated with the Easter Seal Society of
96 Connecticut, Inc., any health care facility or
97 institution or any state health care facility or
98 institution proposing a capital expenditure
99 exceeding one million dollars, or the acquisition
100 of major medical equipment requiring a capital
101 expenditure, as defined in regulations adopted
102 pursuant to section 19a-643, in excess of four
103 hundred thousand dollars, including the leasing of
104 equipment or a facility, shall submit a request
105 for approval of such expenditure to the office,
106 with such data, information and plans as the
107 office requires in advance of the proposed
108 initiation date of such project and in accordance
109 with any schedule established by the office
110 pursuant to subsection (c) of this section. The
111 office shall thereupon hold a public hearing with
112 respect to such request, at least two weeks'
113 notice of which shall be given to the facility or
114 institution by certified mail and to the public by
115 publication in a newspaper having a substantial
116 circulation in the area served by the facility or
117 institution. The commissioner shall notify the
118 Commissioner of Social Services of any application
119 that may impact on expenditures under the state

120 medical assistance program. Such hearing shall be
121 held at the discretion of the office in Hartford
122 or in the area so served. The office shall
123 consider such request in relation to the community
124 or regional need for such capital program or
125 purchase of land, the possible effect on the
126 operating costs of the health care facility or
127 institution and such other relevant factors as the
128 office deems necessary. In approving or modifying
129 such request, the commissioner may not prescribe
130 any condition, such as but not limited to, any
131 condition or limitation on the indebtedness of the
132 facility or institution in connection with a bond
133 issue, the principal amount of any bond issue or
134 any other details or particulars related to the
135 financing of such capital expenditure, not
136 directly related to the scope of such capital
137 program and within control of the facility or
138 institution. An applicant, prior to submitting a
139 certificate of need application, shall request in
140 writing, application forms and instructions from
141 the office. The request shall be known as a letter
142 of intent. A letter of intent shall include: (A)
143 The name of the applicant or applicants; (B) a
144 statement indicating whether the application is
145 for a new facility, service or function, expansion
146 of an existing facility, service or function and
147 any new or additional beds and their type; (C) the
148 estimated capital cost; (D) the town where the
149 project will be located; and (E) a brief
150 description of the proposed project. No
151 certificate of need application will be considered
152 filed with the office unless a current letter of
153 intent, specific to the proposal and in accordance
154 with this subsection, has been on file with the
155 office at least ninety days. A current letter of
156 intent is a letter of intent which has been on
157 file at the office no more than one hundred twenty
158 days. Upon a showing by such facility or
159 institution that the need for such capital program
160 is of an emergency nature, in that the capital
161 expenditure is necessary to comply with any
162 federal, state or local health, fire, building or
163 life safety code, the commissioner may waive the
164 letter of intent requirement and the requirement
165 that the request be submitted in accordance with
166 any schedule established by the office pursuant to
167 subsection (c) of this section and that a public

168 hearing be held thereon, provided such request
169 shall be submitted at least ten business days
170 before the proposed initiation date of the
171 project. The commissioner shall grant, modify or
172 deny such request within ninety days or within ten
173 business days, as the case may be, of receipt
174 thereof, except as provided for in this section.
175 Upon the request of the applicant, the review
176 period may be extended for an additional fifteen
177 days if the office has requested additional
178 information subsequent to the commencement of the
179 review period. The commissioner may extend the
180 review period for a maximum of thirty days if the
181 applicant has not filed in a timely manner,
182 information deemed necessary by the office.
183 Failure of the office to act thereon within such
184 review period shall be deemed approval of such
185 request. The ninety-day review period, pursuant to
186 this section, for an application filed by a
187 hospital as defined under section 19a-490 and
188 licensed as a short-term acute-care general
189 hospital or a children's hospital by the
190 Department of Public Health, shall not apply if,
191 in the certificate of need application or request,
192 the hospital projects that the implementation of
193 such application or request will require future
194 budget adjustments. The office shall adopt
195 regulations to establish an expedited hearing
196 process to be used to review requests by any
197 facility or institution for approval of a capital
198 expenditure to establish an energy conservation
199 program or to comply with requirements of any
200 federal, state or local health, fire, building or
201 life safety code. The office shall adopt
202 regulations in accordance with the provisions of
203 chapter 54 to provide for the waiver of a hearing,
204 for any part of a request by a facility or
205 institution for a capital expenditure, provided
206 such facility or institution and the office agree
207 upon such waiver.

208 PH COMMITTEE VOTE: YEA 23 NAY 0 JF

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"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF 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 HOUSE THEREOF FOR ANY PURPOSE."

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FISCAL IMPACT STATEMENT - BILL NUMBER SB 348

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|------------------|--|
| STATE IMPACT | Minimal Cost, Within Anticipated Budgetary Resources, see explanation below |
| MUNICIPAL IMPACT | None |
| STATE AGENCY(S) | Office of Health Care Access, Department of Social Services, Office of the Comptroller |

EXPLANATION OF ESTIMATES:

Passage of this bill will result in a minimal cost, that can be accommodated within anticipated budgetary resources, to the Office of Health Care Access. It is assumed that the locations and services of sixteen established Health Maintenance Organizations (HMOs) in Connecticut that are in place as of October 1, 1998 would be grandfathered under provisions of the bill. Any future requests for certificate of need (CON) review are anticipated to be handled within the routine duties of the Office.

The requirement that HMOs undergo CON review prior to major expansions may result in increased future costs to the Medicaid program administered by the Department of Social Services. If the CON review requirements increase the cost of business to the health care plans, future bids submitted may reflect these increases, thus passing the additional costs on to the DSS.

It is not anticipated that this bill will have any impact on the State Employees Health Cost account in FY 1998-99. It is unclear if the bill will impact the State employee rates in the future.

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OLR BILL ANALYSIS

SB 348

AN ACT EXTENDING CERTIFICATE OF NEED REQUIREMENTS TO HEALTH MAINTENANCE ORGANIZATIONS

SUMMARY: This bill requires health maintenance organizations (HMOs) to undergo certificate of need (CON) review by the Office of Health Care Access (OHCA) when (1) proposing capital expenditures exceeding \$1 million, (2) acquiring major medical equipment requiring capital expenditures over \$400,000, and (3) introducing any new or additional service or increasing staff.

Under current law, HMOs are not subject to CON review except for acquisition of imaging equipment costing more than \$400,000.

EFFECTIVE DATE: October 1, 1998

BACKGROUND

Certificate of Need

CON is a regulatory program administered by OHCA for review of certain proposed capital expenditures of health care facilities, acquisition of major medical equipment, institution of new services or functions, termination of services, transfer of ownership, and decreases in bed capacity. Generally, a CON is a formal statement by OHCA that a health care facility, medical equipment purchase, or service change is needed.

Related Bill

SHB 5403, favorably reported by the Public Health Committee, makes a number of substantive and technical changes to the CON program.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Report

8

File No. 304

Yea 23

Nay 0