



# House of Representatives

General Assembly

**File No. 94**

January Session, 2011

House Bill No. 5048

*House of Representatives, March 21, 2011*

The Committee on Public Health reported through REP. RITTER, E. of the 38th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

***AN ACT REQUIRING CERTIFICATE OF NEED APPROVAL FOR THE TERMINATION OF INPATIENT AND OUTPATIENT SERVICES BY A HOSPITAL.***

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

- 1 Section 1. Section 19a-638 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):
- 3 (a) A certificate of need issued by the office shall be required for:
- 4 (1) The establishment of a new health care facility;
- 5 (2) A transfer of ownership of a health care facility;
- 6 (3) The establishment of a free-standing emergency department;
- 7 (4) The termination of inpatient or outpatient services offered by a  
8 hospital, including, but not limited to, the termination by a short-term  
9 acute care general hospital or children's hospital of inpatient and  
10 outpatient mental health and substance abuse services;

11 (5) The establishment of an outpatient surgical facility, as defined in  
12 section 19a-493b, or as established by a short-term acute care general  
13 hospital;

14 (6) The termination of an emergency department by a short-term  
15 acute care general hospital;

16 (7) The establishment of cardiac services, including inpatient and  
17 outpatient cardiac catheterization, interventional cardiology and  
18 cardiovascular surgery;

19 (8) The acquisition of computed tomography scanners, magnetic  
20 resonance imaging scanners, positron emission tomography scanners  
21 or positron emission tomography-computed tomography scanners, by  
22 any person, physician, provider, short-term acute care general hospital  
23 or children's hospital;

24 (9) The acquisition of nonhospital based linear accelerators;

25 (10) An increase in the licensed bed capacity of a health care facility;

26 (11) The acquisition of equipment utilizing technology that has not  
27 previously been utilized in the state; and

28 (12) An increase of two or more operating rooms within any three-  
29 year period, commencing on and after October 1, 2010, by an  
30 outpatient surgical facility, as defined in section 19a-493b, or by a  
31 short-term acute care general hospital.

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

33 (1) Health care facilities owned and operated by the federal  
34 government;

35 (2) The establishment of offices by a licensed private practitioner,  
36 whether for individual or group practice, except when a certificate of  
37 need is required in accordance with the requirements of section 19a-  
38 493b or [subdivisions (8) and] subdivision (8) or (9) of subsection (a) of  
39 this section;

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

42 (4) Residential care homes, nursing homes and rest homes, as  
43 defined in subsection (c) of section 19a-490;

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

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

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

47 (8) Outpatient rehabilitation facilities;

48 (9) Outpatient chronic dialysis services;

49 (10) Transplant services;

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

51 (12) School-based health centers, community health centers, as  
52 defined in section 19a-490a, not-for-profit outpatient clinics licensed in  
53 accordance with the provisions of chapter 368v and federally qualified  
54 health centers;

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

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

66 (15) A health care facility operated by a nonprofit educational

67 institution exclusively for students, faculty and staff of such institution  
68 and their dependents;

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

73 (17) A residential facility for [the mentally retarded] persons with  
74 intellectual disability licensed pursuant to section 17a-227 and certified  
75 to participate in the Title XIX Medicaid program as an intermediate  
76 care facility for the mentally retarded;

77 (18) Replacement of existing imaging equipment if such equipment  
78 was acquired through certificate of need approval or a certificate of  
79 need determination, provided a health care facility, provider,  
80 physician or person notifies the office of the date on which the  
81 equipment is replaced and the disposition of the replaced equipment;

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

84 [(20) The termination of inpatient or outpatient services offered by a  
85 hospital, except as provided in subdivision (4) of subsection (a) of this  
86 section and section 19a-639e;]

87 [(21)] (20) The partial or total elimination of services provided by an  
88 outpatient surgical facility, as defined in section 19a-493b, except as  
89 provided in section 19a-639e; or

90 [(22)] (21) The termination of services for which the Department of  
91 Public Health has requested the facility to relinquish its license.

92 (c) (1) Any person, health care facility or institution that is unsure  
93 whether a certificate of need is required under this section, or (2) any  
94 health care facility that proposes to relocate pursuant to section 19a-  
95 639c shall send a letter to the office that describes the project and  
96 requests that the office make a determination as to whether a certificate

97 of need is required. In the case of a relocation of a health care facility,  
98 the letter shall include information described in section 19a-639c. A  
99 person, health care facility or institution making such request shall  
100 provide the office with any information the office requests as part of its  
101 determination process.

102 (d) The Commissioner of Public Health may implement policies and  
103 procedures necessary to administer the provisions of this section while  
104 in the process of adopting such policies and procedures as regulation,  
105 provided the commissioner holds a public hearing prior to  
106 implementing the policies and procedures and prints notice of intent to  
107 adopt regulations in the Connecticut Law Journal not later than twenty  
108 days after the date of implementation. Policies and procedures  
109 implemented pursuant to this section shall be valid until the time final  
110 regulations are adopted. Final regulations shall be adopted by  
111 December 31, 2011.

112 Sec. 2. Subsection (a) of section 19a-639e of the general statutes is  
113 repealed and the following is substituted in lieu thereof (*Effective from*  
114 *passage*):

115 (a) [Any] Unless otherwise required to file a certificate of need  
116 application pursuant to the provisions of subsection (a) of section 19a-  
117 638, as amended by this act, any health care facility that proposes to  
118 terminate a service that was authorized pursuant to a certificate of  
119 need issued under this chapter shall file a modification request with  
120 the office not later than sixty days prior to the proposed date of the  
121 termination of the service. The office may request additional  
122 information from the health care facility as necessary to process the  
123 modification request. In addition, the office shall hold a public hearing  
124 on any request from a health care facility to terminate a service  
125 pursuant to this section if three or more individuals or an individual  
126 representing an entity with five or more people submits a request, in  
127 writing, that a public hearing be held on the health care facility's  
128 proposal to terminate a service.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	19a-638
Sec. 2	<i>from passage</i>	19a-639e(a)

**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:**

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Public Health, Dept.	GF - Potential Revenue Gain	2,500	3,000

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill results in a potential General Fund revenue gain of \$2,500 in FY 12 and \$3,000 in FY 13. It requires any hospital, seeking to terminate inpatient or outpatient services currently offered, to file a certificate of need (CON) application with the Office of Health Care Access (OHCA), a division of the Department of Public Health<sup>1</sup>. It is unknown how many terminations of such services will be sought in FY 12 and FY 13. Based on the number of applications received in FY 09 (two) and FY 10 (three), it is estimated that five applications may be received in FY 12 (resulting in a potential revenue gain of up to \$2,500) and six may be received in FY 13 (resulting in a potential revenue gain of up to \$3,000). CGS Sec. 19a-639a establishes a \$500 CON application fee for termination of certain hospital services.

**The Out Years**

The fiscal impact identified above would continue into the future subject to the number of hospitals filing CON applications for the termination of inpatient or outpatient services.

<sup>1</sup> This requirement existed in previous years. PA 10-179 eliminated it from the OCHA statutes.

**OLR Bill Analysis****HB 5048*****AN ACT REQUIRING CERTIFICATE OF NEED APPROVAL FOR THE TERMINATION OF INPATIENT AND OUTPATIENT SERVICES BY A HOSPITAL.*****SUMMARY:**

This bill requires any hospital seeking to terminate currently offered inpatient or outpatient service to file a certificate of need (CON) application with the Office of Health Care Access (OHCA) division of the Department of Public Health (DPH). Generally, existing law requires CON authorization when a health care facility proposes: (1) establishment of new facilities or services, (2) a change in ownership, (3) the purchase or acquisition of certain equipment, or (4) termination of certain services.

It also makes minor and technical changes.

EFFECTIVE DATE: Upon passage

**CERTIFICATE OF NEED*****Termination of Services***

Under current law, while a CON is not required for termination of inpatient or outpatient services offered by a hospital, the facility proposing to terminate such services must file a modification request with the OHCA division if the proposed terminated service was originally authorized under a CON. This request must be filed at least 60 days prior to the proposed termination request. OHCA must hold a public hearing on the request if three or more individuals or an individual representing an entity with five or more people submits a written request for a hearing.

Under the bill, a hospital seeking to terminate any inpatient or



outpatient service must file a CON application, but would not have to file the modification request.

Under existing law, unchanged by the bill, termination of inpatient and outpatient mental health and substance abuse services by a short-term acute general hospital or children's hospital does require a CON authorization.

## **BACKGROUND**

### ***Activities Requiring a CON***

By law, the following activities require a CON:

1. establishment of a new health care facility;
2. a transfer of ownership of a health care facility;
3. establishment of a free-standing emergency department;
4. termination by a short-term acute care general hospital or children's hospital of inpatient and outpatient mental health and substance abuse services;
5. establishment of an outpatient surgical facility by a short-term acute care general hospital or by an entity other than a hospital;
6. termination of an emergency department by a short-term acute care general hospital;
7. establishment of cardiac services, including inpatient and outpatient cardiac catheterization, interventional cardiology, and cardiovascular surgery;
8. acquisition of computed tomography scanners, magnetic resonance imaging scanners, positron emission tomography scanners, or positron emission tomography-computed tomography scanners, by any person, physician, provider, short-term acute care general hospital or children's hospital;
9. acquisition of nonhospital based linear accelerators;

- 10. an increase in the licensed bed capacity of a health care facility;
- 11. acquisition of equipment utilizing technology that has not previously been utilized in the state; and
- 12. an increase of two or more operating rooms within any three-year period, starting on and after October 1, 2010, by an outpatient surgical facility or a short-term acute care general hospital.

**Related Bill**

HB 6371, which has passed the House, exempts from CON review the acquisition of any equipment by a person for use exclusively for scientific research not conducted on human beings.

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable

Yea 17    Nay 9    (03/07/2011)