

Public Health Committee JOINT FAVORABLE REPORT

Bill No.: SB-9

Title: AN ACT PROMOTING HOSPITAL FINANCIAL STABILITY.

Vote Date: 3/22/2024

Vote Action: Joint Favorable Substitute

PH Date: 3/6/2024

File No.: 381

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SPONSORS OF BILL:

Office of the Governor
The Public Health Committee

REASONS FOR BILL:

This bill is brought forward to address the financial plight of several hospitals in the state, regarding the acquisition by entities, streamlining of some processes, and assessment of fines for non-compliance. To summarize, the bill:

- Gives the Department of Public Health (DPH) the authority to issue a civil penalty of up to \$25,000 for non-compliance with DPH regulations.
- Requires DPH to establish Emergency Room diversion requirements.
- Includes public companies in the definition of "person" for the Certificate of Need (CON) process.
- Expands the CON requirement for transfers of ownership involving a 20% or more ownership stake of a healthcare facility or large group practice.
- Removes CT scanners from the CON review.
- Requires the Office of Health Strategy (OHS) to automatically issue a CON to any health care facility or large group practice, except a hospital, for transfer of ownership until the end of 2025.
- Expands what OHS must consider when processing a CON application.
- Requires each hospital to submit a quarterly report to OHS that identifies certain financial information from the prior calendar year. This section assesses a \$10,000 penalty for each incidence of non-compliance and requires OHS to provide a quarterly summary of the reports to the Office of Policy and Management (OPM).

Substitute language adds 4 items to the quarterly report each hospital must submit to OHS.

RESPONSE FROM ADMINISTRATION/AGENCY:

Ned Lamont, Governor, State of Connecticut:

This bill, proposed by Governor Lamont, recognizes the changing landscape of our healthcare system, where an increasing number of hospitals have been acquired by out of state, for profit, private entities in which the increasing complexity of these transactions has resulted in reduced transparency of these financial transactions. Current state law does not provide for adequate oversight of these entities and the Governor proposes this bill to increase access to financial information. An additional benefit of this bill is that it will enhance transfer of ownership reviews by the Office of Health Strategy (OHS), which will result in better oversight of facility and or system acquisitions.

Manisha Juthani, Commissioner, Department of Public Health (DPH):

Commissioner Juthani is in strong support of this bill and emphasized the importance of the state having the necessary tools to ensure accountability of the hospitals, which will result in sustainability and stability of these institutions. While there are statutes currently available to enforce the regulations in place, this bill provides some flexibility by authorizing civil penalties up to \$25,000 for non-compliance. This bill also calls for the establishment of diversion requirements for hospital emergency rooms to help address the difficulties associated with overcrowded facilities. DPH is committed to working with hospitals to adopt regulations that will help address this situation.

Sean King, Acting Health Care Advocate, Office of the HealthCare Advocate (OCA):

Mr. King noted that there is growing research showing the negative impact of ownership of healthcare facilities and systems by private equity groups. He also noted that private equity groups are increasing their presence in Connecticut, driving consolidation and purchasing large physician group practices. OHA staff are encountering the negative impact of private equity ownership in their case work, recognizing that providers are serving their investors at the expense of patients. This bill illuminates some of the issues associated with private equity ownership, but the OCA expressed concern that some entities would be exempt from CON review because of Section 4 of this bill.

Martin Looney, Senate President Pro Tempore, Connecticut General Assembly (CGA):

Senator Looney supports this bill but is concerned with Section 4, (f), that allows automatic approval of practice acquisitions until the end of 2025. Senator Looney does not believe this is appropriate and asked that it be removed from this bill.

Deidre Gifford, Commissioner, Office of Health Strategy (OHS):

Commissioner Gifford commented that hospitals are integral components of our communities, providing preventative and lifesaving services. This bill promotes financial stability in hospitals by addressing gaps in the CON process and requiring more frequent financial reporting by hospitals on an expanded list of items. This bill takes a comprehensive approach to addressing practices that may be potentially harmful to financial stability and sustainability of our hospitals.

NATURE AND SOURCES OF SUPPORT:

Ellen Andrews, PhD., Connecticut health Policy Project:

Doctor Andrews submitted testimony that acknowledged the concerns raised by private equity ownership of healthcare systems, and the resulting decline in the quality of care. The Governor's bill represents an important start to addressing shortcomings of the CON process and protecting Connecticut citizens from private equity harm.

Liz Dupont-Diehl, Connecticut Citizen's Action group (CCAG):

CCAG applauds the Governor's bill that addresses shortcomings in the CON process, thereby protecting consumers from the harm of private equity ownership. While CCAG supports this bill, it strongly recommends a review of Section 4, (f), which automatically approves acquisitions until the end of 2025 and lowers the percentage ownership threshold for review.

NATURE AND SOURCES OF OPPOSITION:

Sharon Adams, Nuvance Health, President, Eastern Region:

Senate Bill 9 increases regulatory oversight of hospitals while it does nothing to address workforce shortages, financial hardships exacerbated by the pandemic, significant inflation of the cost of pharmaceuticals, supplies, electricity, and labor. Adding increased regulatory oversight and imposing penalties will not improve the quality of care for Connecticut consumers.

Connecticut Hospital Association (CHA):

CHA opposes SB 9, noting that hospitals are critical to their communities, having provided heroic service during the pandemic while suffering significant financial hardships. In the post pandemic world, hospitals continue to perform at a high level, but the high cost of delivery associated with inflation erode their margins even further. This bill does little, if anything, to address these hardships, which may have a negative impact on the quality of care available to Connecticut consumers.

Vincent Capece, Jr., President and CEO, Middlesex Health:

Mr. Capece noted that since the COVID-19 pandemic, Connecticut hospitals took unprecedented steps to provide care for their communities. The financial impacts have been staggering and Mr. Capece noted many of the impacts in his testimony. The proposed increase in regulatory oversight and the imposition of penalties for non-compliance are not the way to ensure quality health care. Providing assistance for all the hardships caused by inflation and workforce shortages would be a more effective approach to ensuring quality care.

Madhavi Raghu, MD, Danbury Radiologic Associates:

Dr Raghu noted that current CON requirements call for a CT scanner applicant to commit to serving low income, underserved communities. Yet, untethering CT scanners from CON requirements will mean the applicant has no obligation to serve these communities. This requirement is critical to helping solve what is known as an inequitable delivery of healthcare services in Connecticut.

Others in Opposition:

Kathleen Silard, President and CEO, Stamford Hospital

Patrick Charmel, President and CEO, Griffin Health

Daniel Keenan, VP Government relations, Trinity Health

Bridget Feagin, CFO, CT Children's Hospital

Deborah Weymouth, President and CEO, Waterbury Hospital

Reported by: Dave Rackliffe, Asst. Clerk

Date: March 25, 2024