



Substitute Senate Bill No. 35

Public Act No. 14-168

AN ACT CONCERNING NOTICE OF ACQUISITIONS, JOINT VENTURES, AFFILIATIONS OF GROUP MEDICAL PRACTICES AND HOSPITAL ADMISSIONS, MEDICAL FOUNDATIONS AND CERTIFICATES OF NEED.

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

Section 1. (NEW) (*Effective October 1, 2014*) (a) As used in this section:

(1) "Affiliation" means the formation of a relationship between two or more entities that permits the entities to negotiate jointly with third parties over rates for professional medical services;

(2) "Captive professional entity" means a professional corporation, limited liability company or other entity formed to render professional services in which a beneficial owner is a physician employed by or otherwise designated by a hospital or hospital system;

(3) "Hospital" has the same meaning as provided in section 19a-490 of the general statutes;

(4) "Hospital system" means: (A) A parent corporation of one or more hospitals and any entity affiliated with such parent corporation through ownership, governance or membership, or (B) a hospital and

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any entity affiliated with such hospital through ownership, governance or membership;

(5) "Health care provider" has the same meaning as provided in section 19a-17b of the general statutes;

(6) "Medical foundation" means a medical foundation formed under chapter 594b of the general statutes;

(7) "Physician" has the same meaning as provided in section 20-13a of the general statutes;

(8) "Person" has the same meaning as provided in section 35-25 of the general statutes;

(9) "Professional corporation" has the same meaning as provided in section 33-182a of the general statutes;

(10) "Group practice" means two or more physicians, legally organized in a partnership, professional corporation, limited liability company formed to render professional services, medical foundation, not-for-profit corporation, faculty practice plan or other similar entity (A) in which each physician who is a member of the group provides substantially the full range of services that the physician routinely provides, including, but not limited to, medical care, consultation, diagnosis or treatment, through the joint use of shared office space, facilities, equipment or personnel; (B) for which substantially all of the services of the physicians who are members of the group are provided through the group and are billed in the name of the group practice and amounts so received are treated as receipts of the group; or (C) in which the overhead expenses of, and the income from, the group are distributed in accordance with methods previously determined by members of the group. An entity that otherwise meets the definition of group practice under this section shall be considered a group practice although its shareholders, partners or owners of the group practice

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include single-physician professional corporations, limited liability companies formed to render professional services or other entities in which beneficial owners are individual physicians; and

(11) "Primary service area" means the smallest number of zip codes from which the group practice draws at least seventy-five per cent of its patients.

(b) At the same time that any person conducting business in this state that files merger, acquisition or any other information regarding market concentration with the Federal Trade Commission or the United States Department of Justice, in compliance with the Hart-Scott-Rodino Antitrust Improvements Act, 15 USC 18a, where a hospital, hospital system or other health care provider is a party to the merger or acquisition that is the subject of such information, such person shall provide written notification to the Attorney General of such filing and, upon the request of the Attorney General, provide a copy of such merger, acquisition or other information.

(c) Not less than thirty days prior to the effective date of any transaction that results in a material change to the business or corporate structure of a group practice, the parties to the transaction shall submit written notice to the Attorney General of such material change. For purposes of this subsection, a material change to the business or corporate structure of a group practice includes: (1) The merger, consolidation or other affiliation of a group practice with (A) another group practice that results in a group practice comprised of eight or more physicians, or (B) a hospital, hospital system, captive professional entity, medical foundation or other entity organized or controlled by such hospital or hospital system; (2) the acquisition of all or substantially all of (A) the properties and assets of a group practice, or (B) the capital stock, membership interests or other equity interests of a group practice by (i) another group practice that results in a group practice comprised of eight or more physicians, or (ii) a hospital,

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hospital system, captive professional entity, medical foundation or other entity organized or controlled by such hospital or hospital system; (3) the employment of all or substantially all of the physicians of a group practice by (A) another group practice that results in a group practice comprised of eight or more physicians, or (B) a hospital, hospital system, captive professional entity, medical foundation or other entity organized by, controlled by or otherwise affiliated with such hospital or hospital system; and (4) the acquisition of one or more insolvent group practices by (A) another group practice that results in a group practice comprised of eight or more physicians, or (B) a hospital, hospital system, captive professional entity, medical foundation or other entity organized by, controlled by or otherwise affiliated with such hospital or hospital system.

(d) The written notice required under subsection (c) of this section shall identify each party to the transaction and describe the material change as of the date of such notice to the business or corporate structure of the group practice, including: (1) A description of the nature of the proposed relationship among the parties to the proposed transaction; (2) the names and specialties of each physician that is a member of the group practice that is the subject of the proposed transaction and who will practice medicine with the resulting group practice, hospital, hospital system, captive professional entity, medical foundation or other entity organized by, controlled by, or otherwise affiliated with such hospital or hospital system following the effective date of the transaction; (3) the names of the business entities that are to provide services following the effective date of the transaction; (4) the address for each location where such services are to be provided; (5) a description of the services to be provided at each such location; and (6) the primary service area to be served by each such location.

(e) Written information submitted to the Attorney General pursuant to subsections (b) to (d), inclusive, of this section shall be maintained

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and used by the Attorney General in the same manner as provided in section 35-42 of the general statutes.

(f) Not later than December 31, 2014, and annually thereafter, each hospital and hospital system shall file with the Attorney General and the Commissioner of Public Health a written report describing the activities of the group practices owned or affiliated with such hospital or hospital system. Such report shall include, for each such group practice: (1) A description of the nature of the relationship between the hospital or hospital system and the group practice; (2) the names and specialties of each physician practicing medicine with the group practice; (3) the names of the business entities that provide services as part of the group practice and the address for each location where such services are provided; (4) a description of the services provided at each such location; and (5) the primary service area served by each such location.

(g) Not later than December 31, 2014, and annually thereafter, each group practice comprised of thirty or more physicians that is not the subject of a report filed under subsection (f) of this section shall file with the Attorney General and the Commissioner of Public Health a written report concerning the group practice. Such report shall include, for each such group practice: (1) The names and specialties of each physician practicing medicine with the group practice; (2) the names of the business entities that provide services as part of the group practice and the address for each location where such services are provided; (3) a description of the services provided at each such location; and (4) the primary service area served by each such location.

Sec. 2. Section 33-182aa of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

As used in this chapter:

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(1) "Affiliate" means any person that directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with another person. A person is deemed controlled by another person if the other person, or one of that other person's affiliates, officers, agents or management employees, acts as a general partner or manager of the person in question;

(2) "Certificate of incorporation" means a certificate of incorporation, as defined in section 33-1002, or any predecessor statute thereto;

[(2)] (3) "Hospital" means [a nonstock corporation organized under chapter 602, or any predecessor statute thereto, or by special act and licensed as] a hospital licensed pursuant to chapter 368v;

[(3)] (4) "Health system" means [a nonstock corporation organized under chapter 602, or any predecessor statute thereto,] a business entity consisting of a parent corporation of one or more hospitals licensed pursuant to chapter 368v, and affiliated through governance, membership or some other means;

[(4)] (5) "Medical school" means a school of allopathic medicine leading to the M.D. degree, accredited by the Liaison Committee on Medical Education, and affiliated through governance with or part of a university that is either incorporated in this state or established pursuant to any provision of the general statutes and accredited by the New England Association of Schools and Colleges Commission on Institutions of Higher Education; and

[(5)] (6) "Provider" means a physician licensed under chapter 370, a chiropractor licensed under chapter 372, an optometrist licensed under chapter 380 or a podiatrist licensed under chapter 375.

Sec. 3. Section 33-182bb of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

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(a) (1) Any hospital, health system or medical school may organize and become a member of a medical foundation under the provisions of chapter 602 for the purpose of practicing medicine and providing health care services as a medical foundation through employees or agents of such medical foundation who are [licensed pursuant to section 20-9 and through other] providers. Such medical foundation shall be governed by a board of directors, which shall consist of an equal or greater number of providers than nonprovider employees of the members, in addition to such other directors as may be elected by the members. The authority to appoint or elect board members shall not be granted to any person or entity that is not a member of the medical foundation.

(2) Notwithstanding the provisions of this subsection, (A) no employee or representative of a for-profit hospital, for-profit health system, for-profit medical school or any entity that owns or controls a for-profit hospital, for-profit health system or for-profit medical school may serve on the board of directors of a medical foundation organized by a nonprofit hospital, nonprofit health system or nonprofit medical school; (B) no employee or representative of a nonprofit hospital, nonprofit health system, nonprofit medical school or any entity that owns or controls a nonprofit hospital, nonprofit health system or nonprofit medical school may serve on the board of directors of a medical foundation organized by a for-profit hospital, for-profit health system or for-profit medical school; and (C) no person shall serve on the board of directors of a medical foundation organized by a for-profit hospital, for-profit health system or for-profit medical school and, at the same time, serve on the board of directors of a medical foundation organized by a nonprofit hospital, nonprofit health system or nonprofit medical school.

(b) Any medical foundation organized on or after July 1, 2009, shall file a copy of its certificate of incorporation and any amendments to its

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certificate of incorporation with the Office of Health Care Access division of the Department of Public Health not later than ten business days after the medical foundation files such certificate of incorporation or amendment with the Secretary of the State pursuant to chapter 602.

(c) Any medical group clinic corporation formed under chapter 594 of the general statutes, revision of 1958, revised to 1995, which amends its certificate of incorporation pursuant to subsection (a) of section 33-182cc, shall file with the Office of Health Care Access division of the Department of Public Health a copy of its certificate of incorporation and any amendments to its certificate of incorporation, including any amendment to its certificate of incorporation that complies with the requirements of subsection (a) of section 33-182cc, not later than ten business days after the medical foundation files its certificate of incorporation or any amendments to its certificate of incorporation with the Secretary of the State.

(d) Any medical foundation, regardless of when organized, shall file notice with the Office of Health Care Access division of the Department of Public Health and the Secretary of the State of its liquidation, termination, dissolution or cessation of operations not later than ten business days after a vote by its board of directors or members to take such action. [Not later than ten business days after receiving a written request from the office, a] A medical foundation shall, annually, provide the office with a statement of its mission, [and] a description of the services it provides, [and] a description of any significant change in its services during the preceding year and other financial information as reported on the medical foundation's most recently filed Internal Revenue Service return of organization exempt from income tax form, or any replacement form adopted by the Internal Revenue Service, or, if such medical foundation is not required to file such form, information substantially similar to that required by such form. The Office of Health Care Access shall make

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such forms and information available to members of the public and accessible on said office's Internet web site.

(e) A medical foundation shall not operate for profit and may operate at such locations as are designated by its members.

(f) A hospital, health system or medical school may organize and be a member of no more than one medical foundation.

Sec. 4. (NEW) (*Effective October 1, 2014*) Upon admitting a patient to a hospital, hospital personnel shall promptly ask the patient whether the patient desires for his or her physician to be notified of the hospital admission. If the patient so desires, hospital personnel shall make reasonable efforts to notify the physician designated by the patient of the patient's hospital admission as soon as practicable, but not later than twenty-four hours after the patient's request. For purposes of this section, "hospital" shall have the same meaning as provided in section 19a-490 of the general statutes; and "physician" means a person licensed under the provisions of chapter 370 of the general statutes.

Sec. 5. Section 19a-630 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2014*):

As used in this chapter, unless the context otherwise requires:

(1) "Affiliate" means a person, entity or organization controlling, controlled by or under common control with another person, entity or organization. Affiliate does not include a medical foundation organized under chapter 594b.

(2) "Applicant" means any person or health care facility that applies for a certificate of need pursuant to section 19a-639a, as amended by this act.

(3) "Bed capacity" means the total number of inpatient beds in a

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facility licensed by the Department of Public Health under sections 19a-490 to 19a-503, inclusive.

(4) "Capital expenditure" means an expenditure that under generally accepted accounting principles consistently applied is not properly chargeable as an expense of operation or maintenance and includes acquisition by purchase, transfer, lease or comparable arrangement, or through donation, if the expenditure would have been considered a capital expenditure had the acquisition been by purchase.

(5) "Certificate of need" means a certificate issued by the office.

(6) "Days" means calendar days.

(7) "Deputy commissioner" means the deputy commissioner of Public Health who oversees the Office of Health Care Access division of the Department of Public Health.

(8) "Commissioner" means the Commissioner of Public Health.

(9) "Free clinic" means a private, nonprofit community-based organization that provides medical, dental, pharmaceutical or mental health services at reduced cost or no cost to low-income, uninsured and underinsured individuals.

(10) "Group practice" means eight or more full-time equivalent physicians, legally organized in a partnership, professional corporation, limited liability company formed to render professional services, medical foundation, not-for-profit corporation, faculty practice plan or other similar entity (A) in which each physician who is a member of the group provides substantially the full range of services that the physician routinely provides, including, but not limited to, medical care, consultation, diagnosis or treatment, through the joint use of shared office space, facilities, equipment or personnel; (B) for which substantially all of the services of the physicians who are

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members of the group are provided through the group and are billed in the name of the group practice and amounts so received are treated as receipts of the group; or (C) in which the overhead expenses of, and the income from, the group are distributed in accordance with methods previously determined by members of the group. An entity that otherwise meets the definition of group practice under this section shall be considered a group practice although its shareholders, partners or owners of the group practice include single-physician professional corporations, limited liability companies formed to render professional services or other entities in which beneficial owners are individual physicians.

[(10)] (11) "Health care facility" means (A) hospitals licensed by the Department of Public Health under chapter 368v; (B) specialty hospitals; (C) freestanding emergency departments; (D) outpatient surgical facilities, as defined in section 19a-493b and licensed under chapter 368v; (E) a hospital or other facility or institution operated by the state that provides services that are eligible for reimbursement under Title XVIII or XIX of the federal Social Security Act, 42 USC 301, as amended; (F) a central service facility; (G) mental health facilities; (H) substance abuse treatment facilities; and (I) any other facility requiring certificate of need review pursuant to subsection (a) of section 19a-638, as amended by this act. "Health care facility" includes any parent company, subsidiary, affiliate or joint venture, or any combination thereof, of any such facility.

[(11)] (12) "Nonhospital based" means located at a site other than the main campus of the hospital.

[(12)] (13) "Office" means the Office of Health Care Access division within the Department of Public Health.

[(13)] (14) "Person" means any individual, partnership, corporation, limited liability company, association, governmental subdivision,

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agency or public or private organization of any character, but does not include the agency conducting the proceeding.

(15) "Physician" has the same meaning as provided in section 20-13a.

[(14)] (16) "Transfer of ownership" means a transfer that impacts or changes the governance or controlling body of a health care facility, [or] institution or group practice, including, but not limited to, all affiliations, mergers or any sale or transfer of net assets of a health care facility.

Sec. 6. Section 19a-638 of the 2014 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2014*):

(a) A certificate of need issued by the office shall be required for:

(1) The establishment of a new health care facility;

(2) A transfer of ownership of a health care facility;

(3) A transfer of ownership of a group practice to any entity other than a physician or group of physicians, except when the parties have signed a sale agreement to transfer such ownership on or before September 1, 2014;

[(3)] (4) The establishment of a freestanding emergency department;

[(4)] (5) The termination of inpatient or outpatient services offered by a hospital, including, but not limited to, the termination by a short-term acute care general hospital or children's hospital of inpatient and outpatient mental health and substance abuse services;

[(5)] (6) The establishment of an outpatient surgical facility, as defined in section 19a-493b, or as established by a short-term acute

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care general hospital;

[(6)] (7) The termination of surgical services by an outpatient surgical facility, as defined in section 19a-493b, or a facility that provides outpatient surgical services as part of the outpatient surgery department of a short-term acute care general hospital, provided termination of outpatient surgical services due to (A) insufficient patient volume, or (B) the termination of any subspecialty surgical service, shall not require certificate of need approval;

[(7)] (8) The termination of an emergency department by a short-term acute care general hospital;

[(8)] (9) The establishment of cardiac services, including inpatient and outpatient cardiac catheterization, interventional cardiology and cardiovascular surgery;

[(9)] (10) The 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, except as provided for in subdivision (22) of subsection (b) of this section;

[(10)] (11) The acquisition of nonhospital based linear accelerators;

[(11)] (12) An increase in the licensed bed capacity of a health care facility;

[(12)] (13) The acquisition of equipment utilizing technology that has not previously been utilized in the state;

[(13)] (14) An increase of two or more operating rooms within any three-year period, commencing on and after October 1, 2010, by an outpatient surgical facility, as defined in section 19a-493b, or by a

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short-term acute care general hospital; and

[(14)] (15) The termination of inpatient or outpatient services offered by a hospital or other facility or institution operated by the state that provides services that are eligible for reimbursement under Title XVIII or XIX of the federal Social Security Act, 42 USC 301, as amended.

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

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

(2) The establishment of offices by a licensed private practitioner, whether for individual or group practice, except when a certificate of need is required in accordance with the requirements of section 19a-493b or subdivision [(9) or (10)] (3), (10) or (11) of subsection (a) of this section;

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

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

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

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

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

(8) Outpatient rehabilitation facilities;

(9) Outpatient chronic dialysis services;

(10) Transplant services;

(11) Free clinics, as defined in section 19a-630, as amended by this

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act;

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

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

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

(15) A health care facility operated by a nonprofit educational institution exclusively for students, faculty and staff of such institution and their dependents;

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

(17) A residential facility for persons with intellectual disability licensed pursuant to section 17a-227 and certified to participate in the Title XIX Medicaid program as an intermediate care facility for individuals with intellectual disabilities;

(18) Replacement of existing imaging equipment if such equipment

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was acquired through certificate of need approval or a certificate of need determination, provided a health care facility, provider, physician or person notifies the office of the date on which the equipment is replaced and the disposition of the replaced equipment;

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

(20) The partial or total elimination of services provided by an outpatient surgical facility, as defined in section 19a-493b, except as provided in subdivision (6) of subsection (a) of this section and section 19a-639e;

(21) The termination of services for which the Department of Public Health has requested the facility to relinquish its license; or

(22) Acquisition of any equipment by any person that is to be used exclusively for scientific research that is not conducted on humans.

(c) (1) Any person, health care facility or institution that is unsure whether a certificate of need is required under this section, or (2) any health care facility that proposes to relocate pursuant to section 19a-639c shall send a letter to the office that describes the project and requests that the office make a determination as to whether a certificate of need is required. In the case of a relocation of a health care facility, the letter shall include information described in section 19a-639c. A person, health care facility or institution making such request shall provide the office with any information the office requests as part of its determination process.

(d) The Commissioner of Public Health may implement policies and procedures necessary to administer the provisions of this section while in the process of adopting such policies and procedures as regulation, provided the commissioner holds a public hearing prior to implementing the policies and procedures and prints notice of intent to

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adopt regulations in the Connecticut Law Journal not later than twenty days after the date of implementation. Policies and procedures implemented pursuant to this section shall be valid until the time final regulations are adopted. Final regulations shall be adopted by December 31, 2011.

Sec. 7. Section 19a-639 of the 2014 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2014*):

(a) In any deliberations involving a certificate of need application filed pursuant to section 19a-638, as amended by this act, the office shall take into consideration and make written findings concerning each of the following guidelines and principles:

(1) Whether the proposed project is consistent with any applicable policies and standards adopted in regulations by the Department of Public Health;

(2) The relationship of the proposed project to the state-wide health care facilities and services plan;

(3) Whether there is a clear public need for the health care facility or services proposed by the applicant;

(4) Whether the applicant has satisfactorily demonstrated how the proposal will impact the financial strength of the health care system in the state or that the proposal is financially feasible for the applicant;

(5) Whether the applicant has satisfactorily demonstrated how the proposal will improve quality, accessibility and cost effectiveness of health care delivery in the region, including, but not limited to, (A) provision of or any change in the access to services for Medicaid recipients and indigent persons, and (B) the impact upon the cost effectiveness of providing access to services provided under the

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Medicaid program;

(6) The applicant's past and proposed provision of health care services to relevant patient populations and payer mix, including, but not limited to, access to services by Medicaid recipients and indigent persons;

(7) Whether the applicant has satisfactorily identified the population to be served by the proposed project and satisfactorily demonstrated that the identified population has a need for the proposed services;

(8) The utilization of existing health care facilities and health care services in the service area of the applicant;

(9) Whether the applicant has satisfactorily demonstrated that the proposed project shall not result in an unnecessary duplication of existing or approved health care services or facilities; [and]

(10) Whether an applicant, who has failed to provide or reduced access to services by Medicaid recipients or indigent persons, has demonstrated good cause for doing so, which shall not be demonstrated solely on the basis of differences in reimbursement rates between Medicaid and other health care payers; [.]

(11) Whether the applicant has satisfactorily demonstrated that the proposal will not negatively impact the diversity of health care providers and patient choice in the geographic region; and

(12) Whether the applicant has satisfactorily demonstrated that any consolidation resulting from the proposal will not adversely affect health care costs or accessibility to care.

(b) In deliberations as described in subsection (a) of this section, there shall be a presumption in favor of approving the certificate of need application for a transfer of ownership of a group practice, as

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described in subdivision (3) of subsection (a) of section 19a-638, as amended by this act, when an offer was made in response to a request for proposal or similar voluntary offer for sale.

[(b)] (c) The office, as it deems necessary, may revise or supplement the guidelines and principles through regulation prescribed in subsection (a) of this section.

Sec. 8. Section 19a-639a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2014*):

(a) An application for a certificate of need shall be filed with the office in accordance with the provisions of this section and any regulations adopted by the Department of Public Health. The application shall address the guidelines and principles set forth in (1) subsection (a) of section 19a-639, as amended by this act, and (2) regulations adopted by the department. The applicant shall include with the application a nonrefundable application fee of five hundred dollars.

(b) Prior to the filing of a certificate of need application, the applicant shall publish notice that an application is to be submitted to the office in a newspaper having a substantial circulation in the area where the project is to be located. Such notice shall (1) be published (A) not later than twenty days prior to the date of filing of the certificate of need application, and (B) for not less than three consecutive days, and (2) contain a brief description of the nature of the project and the street address where the project is to be located. An applicant shall file the certificate of need application with the office not later than ninety days after publishing notice of the application in accordance with the provisions of this subsection. The office shall not accept the applicant's certificate of need application for filing unless the application is accompanied by the application fee prescribed in subsection (a) of this section and proof of compliance with the publication requirements

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prescribed in this subsection.

(c) Not later than five business days after receipt of a properly filed certificate of need application, the office shall publish notice of the application on its web site. Not later than thirty days after the date of filing of the application, the office may request such additional information as the office determines necessary to complete the application. The applicant shall, not later than sixty days after the date of the office's request, submit the requested information to the office. If an applicant fails to submit the requested information to the office within the sixty-day period, the office shall consider the application to have been withdrawn.

(d) Upon determining that an application is complete, the office shall provide notice of this determination to the applicant and to the public in accordance with regulations adopted by the department. In addition, the office shall post such notice on its web site. The date on which the office posts such notice on its web site shall begin the review period. Except as provided in this subsection, (1) the review period for a completed application shall be ninety days from the date on which the office posts such notice on its web site; and (2) the office shall issue a decision on a completed application prior to the expiration of the ninety-day review period. The review period for a completed application that involves a transfer of a group practice, as described in subdivision (3) of subsection (a) of section 19a-638, as amended by this act, when the offer was made in response to a request for proposal or similar voluntary offer for sale shall be sixty days from the date on which the office posts notice on its web site. Upon request or for good cause shown, the office may extend the review period for a period of time not to exceed sixty days. If the review period is extended, the office shall issue a decision on the completed application prior to the expiration of the extended review period. If the office holds a public hearing concerning a completed application in accordance with

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subsection (e) or (f) of this section, the office shall issue a decision on the completed application not later than sixty days after the date the office closes the public hearing record.

(e) [The] Except as provided in this subsection, the office shall hold a public hearing on a properly filed and completed certificate of need application if three or more individuals or an individual representing an entity with five or more people submits a request, in writing, that a public hearing be held on the application. For a properly filed and completed certificate of need application involving a transfer of ownership of a group practice, as described in subdivision (3) of subsection (a) of section 19a-638, as amended by this act, when an offer was made in response to a request for proposal or similar voluntary offer for sale, a public hearing shall be held if twenty-five or more individuals or an individual representing twenty-five or more people submits a request, in writing, that a public hearing be held on the application. Any request for a public hearing shall be made to the office not later than thirty days after the date the office determines the application to be complete.

(f) The office may hold a public hearing with respect to any certificate of need application submitted under this chapter. The office shall provide not less than two weeks' advance notice to the applicant, in writing, and to the public by publication in a newspaper having a substantial circulation in the area served by the health care facility or provider. In conducting its activities under this chapter, the office may hold hearing on applications of a similar nature at the same time.

(g) The Commissioner of Public Health may implement policies and procedures necessary to administer the provisions of this section while in the process of adopting such policies and procedures as regulation, provided the commissioner holds a public hearing prior to implementing the policies and procedures and prints notice of intent to adopt regulations in the Connecticut Law Journal not later than twenty

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days after the date of implementation. Policies and procedures implemented pursuant to this section shall be valid until the time final regulations are adopted. Final regulations shall be adopted by December 31, 2011.

Sec. 9. Section 19a-486a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) No nonprofit hospital shall enter into an agreement to transfer a material amount of its assets or operations or a change in control of operations to a person that is organized or operated for profit without first having received approval of the agreement by the commissioner and the Attorney General pursuant to sections 19a-486 to 19a-486h, inclusive, and pursuant to the Attorney General's authority under section 3-125. Any such agreement without the approval required by sections 19a-486 to 19a-486h, inclusive, shall be void.

(b) Prior to any transaction described in subsection (a) of this section, the nonprofit hospital and the purchaser shall concurrently submit a certificate of need determination letter as described in subsection (c) of section 19a-638, as amended by this act, to the commissioner and the Attorney General by serving it on them by certified mail, return receipt requested, or delivering it by hand to each office. The certificate of need determination letter shall contain: (1) The name and address of the nonprofit hospital; (2) the name and address of the purchaser; (3) a brief description of the terms of the proposed agreement; and (4) the estimated capital expenditure, cost or value associated with the proposed agreement. The certificate of need determination letter shall be subject to disclosure pursuant to section 1-210.

(c) Not later than thirty days after receipt of the certificate of need determination letter by the commissioner and the Attorney General, the purchaser and the nonprofit hospital shall hold a hearing on the

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contents of the certificate of need determination letter in the municipality in which the new hospital is proposed to be located. The nonprofit hospital shall provide not less than two weeks' advance notice of the hearing to the public by publication in a newspaper having a substantial circulation in the affected community for not less than three consecutive days. Such notice shall contain substantially the same information as in the certificate of need determination letter. The purchaser and the nonprofit hospital shall record and transcribe the hearing and make such recording or transcription available to the commissioner, the Attorney General or members of the public upon request.

[(c)] (d) The commissioner and the Attorney General shall review the certificate of need determination letter. The Attorney General shall determine whether the agreement requires approval pursuant to this chapter. If such approval is required, the commissioner and the Attorney General shall transmit to the purchaser and the nonprofit hospital an application form for approval pursuant to this chapter, unless the commissioner refuses to accept a filed or submitted certificate of need determination letter. Such application form shall require the following information: (1) The name and address of the nonprofit hospital; (2) the name and address of the purchaser; (3) a description of the terms of the proposed agreement; (4) copies of all contracts, agreements and memoranda of understanding relating to the proposed agreement; (5) a fairness evaluation by an independent person who is an expert in such agreements, that includes an analysis of each of the criteria set forth in section 19a-486c; (6) documentation that the nonprofit hospital exercised the due diligence required by subdivision (2) of subsection (a) of section 19a-486c, including disclosure of the terms of any other offers to transfer assets or operations or change control of operations received by the nonprofit hospital and the reason for rejection of such offers; and (7) such other information as the commissioner or the Attorney General deem

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necessary to their review pursuant to the provisions of sections 19a-486 to 19a-486f, inclusive, and chapter 368z. The application shall be subject to disclosure pursuant to section 1-210.

[(d)] (e) No later than sixty days after the date of mailing of the application form, the nonprofit hospital and the purchaser shall concurrently file an application with the commissioner and the Attorney General containing all the required information. The commissioner and the Attorney General shall review the application and determine whether the application is complete. The commissioner and the Attorney General shall, no later than twenty days after the date of their receipt of the application, provide written notice to the nonprofit hospital and the purchaser of any deficiencies in the application. Such application shall not be deemed complete until such deficiencies are corrected.

[(e)] (f) No later than twenty-five days after the date of their receipt of the completed application under this section, the commissioner and the Attorney General shall jointly publish a summary of such agreement in a newspaper of general circulation where the nonprofit hospital is located.

[(f)] (g) Any person may seek to intervene in the proceedings under section 19a-486e, in the same manner as provided in section 4-177a.

Sec. 10. Section 19a-486b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Not later than one hundred twenty days after the date of receipt of the completed application pursuant to subsection (d) of section 19a-486a, as amended by this act, the Attorney General and the commissioner shall approve the application, with or without modification, or deny the application. The commissioner shall also determine, in accordance with the provisions of chapter 368z, whether

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to approve, with or without modification, or deny the application for a certificate of need that is part of the completed application. Notwithstanding the provisions of section 19a-639a, the commissioner shall complete the decision on the application for a certificate of need within the same time period as the completed application. Such one-hundred-twenty-day period may be extended by agreement of the Attorney General, the commissioner, the nonprofit hospital and the purchaser. If the Attorney General initiates a proceeding to enforce a subpoena pursuant to section 19a-486c or 19a-486d, as amended by this act, the one-hundred-twenty-day period shall be tolled until the final court decision on the last pending enforcement proceeding, including any appeal or time for the filing of such appeal. Unless the one-hundred-twenty-day period is extended pursuant to this section, if the commissioner and Attorney General fail to take action on an agreement prior to the one hundred twenty-first day after the date of the filing of the completed application, the application shall be deemed approved.

(b) The commissioner and the Attorney General may place any conditions on the approval of an application that relate to the purposes of sections 19a-486a to 19a-486h, inclusive, as amended by this act.

Sec. 11. Subsection (a) of section 19a-486d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The commissioner shall deny an application filed pursuant to subsection (d) of section 19a-486a, as amended by this act, unless the commissioner finds that: (1) 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; (2) in a situation where the asset or operation to be transferred provides or has provided health care services to the uninsured or underinsured, the purchaser has made a commitment to provide health care to the

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uninsured and the underinsured; (3) in a situation where health care providers or insurers will be offered the opportunity to invest or own an interest in the purchaser or an entity related to the purchaser safeguard procedures are in place to avoid a conflict of interest in patient referral; and (4) certificate of need authorization is justified in accordance with chapter 368z. The commissioner may contract with any person, including, but not limited to, financial or actuarial experts or consultants, or legal experts with the approval of the Attorney General, to assist in reviewing the completed application. The commissioner shall submit any bills for such contracts to the purchaser. Such bills shall not exceed one hundred fifty thousand dollars. The purchaser shall pay such bills no later than thirty days after the date of receipt of such bills.

Approved June 3, 2014