

Public Health Committee JOINT FAVORABLE REPORT

Bill No.: HB-7050

AN ACT CONCERNING THE OFFICE OF HEALTH STRATEGY'S
RECOMMENDATIONS REGARDING THE CERTIFICATE OF NEED

Title: PROGRAM.

Vote Date: 3/27/2025

Vote Action: Joint Favorable

PH Date: 3/24/2025

File No.:

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SPONSORS OF BILL:

The Public Health Committee.

REASONS FOR BILL:

This bill does the following:

- Allows the commissioner of the Office of Health Strategy (OHS) to implement policies and procedures for the CON program while in the process of adopting them as regulations, provided she (a) holds a public hearing at least 30 days before implementing them, and (b) publishes notice on the OHS website and e-Regulations system with 20 days after implementing them.
- Changes the definition of “termination of services” to include the termination of any services for a combined total of more than 180 days within a consecutive two-year period or 30 or more consecutive days.
- Requires a CON approval to acquire a proton radiotherapy machine, unless it is a replacement for a machine previously acquired through a CON.
- Authorizes the Health Systems Planning Unit (HSPU), when reviewing CON applications for certain hospital ownership transfers that require a cost and market impact review (CMIR), to consider the CMIR preliminary report and the response to it, the final report, and the parties’ written comments on the report.
- Increases, from \$200,000 to \$300,000, the maximum amount HSPU may charge an applicant for the cost of the independent consultant that conducts the CMIR.

RESPONSE FROM ADMINISTRATION/AGENCY:

Deidre S. Gifford, MD, MPH Commissioner, Office of Health Strategy (OHS):

Dr. Gifford shared the following:

- While OHS is committed to following the full process of notice and comment rulemaking to promulgate regulations, there is a need for policies and procedures to serve as draft regulations while that process plays out. Allowing OHS to establish policies and procedures throughout the CON statute would enable OHS to implement the process with greater clarity and specificity while the regulations process takes place.
- Clarifying the definition of “termination of services” will reduce confusion for providers and the communities they serve.
- OHS believes that proton beam therapy facilities fit squarely within the type of service the CON statute contemplates as appropriate for state oversight and approval.
- OHS is required by Connecticut General Statute 19a-639f to conduct a cost and market impact review (CMIR) for a transfer of ownership of a hospital to another hospital or hospital system. OHS proposes to clarify the statute to explicitly permit OHS to use the CMIR preliminary report, applicant responses to such report, and the final report in the CON decision.
- OHS will determine whether the proposal identified in the request for expedited review would address a significant unmet need and thereby be eligible for such expedited review within 30 days after receipt of the request. The review and disposition must be completed within 30 days of being deemed eligible for expedited review.

NATURE AND SOURCES OF SUPPORT:

John Brady, Executive Vice President, AFT Connecticut:

Section 2, line 36-39, redefine a cessation of services as a combined total of more than 180 days in a two-year period, or 30 consecutive days. This new language is to fix a loophole, which itself was an attempt to fix a loophole. Some hospitals had closed units and or services and avoided a CON by claiming they were not a discontinuation of services, but a pause in services. This was not the intended result of the legislation, but some hospitals found ways to alter the intent to their benefit.

Liz Dupont-Diehl, Associate Director, CT Citizen Action Group (CCAG):

CCAG and our partners are deeply concerned with how healthcare has become inaccessible and unaffordable for so many Connecticut residents. For-profit entities and private equity firms have gained increasing control over healthcare. Their driving motive of ever-increasing profit has resulted in billions being diverted from healthcare, ensuring profits for them at the expense of our health. For too long, the profit motive and market forces have driven the design of our healthcare system and the delivery of services.

NATURE AND SOURCES OF OPPOSITION:

Connecticut Hospital Association (CHA):

CHA shared the following comments:

- Section 1 of the bill allows the Office of Health Strategy (OHS) to use policies and procedures while regulations are pending. CHA opposes the continued use of this practice and urges the agency to return to the established regulatory process set in place by the legislature. While we recognize that the intention of using policies and procedures in place of regulations is the ability to rapidly implement changes, this practice has been misused and does not absolve the agency of implementing regulations and ensuring that proper checks and balances are present from the very beginning of the process.
- Section 2, CHA believes the proposed timeframe for termination of services is insufficient to assess the specific needs of a facility and for that facility to determine whether there is a legitimate “termination” of services or, a pause in care delivery. We request that the original 180-day timeframe remain in place.
- Section 4 of the bill proposes changes to the cost and market impact review process (CMIR), requiring consideration of the preliminary report, response to the preliminary report, final report, and any written comments from the parties regarding the reports. We believe the Attorney General is in a better position to conduct an CMIR and recommend that this authority be shifted to that office.
- Section 5 proposes a broad focus on the CON process. To narrow this focus, CHA requests that OHS develop a separate expedited CON process specifically for the establishment, transfer, or expansion of behavioral health and substance use disorder treatment services, the acquisition of imaging equipment, and the termination of services.
- We believe the CON process needs a much more significant overhaul and CHA recommends the committee consider including additional improvements to the CON process.

Dr. Margaret McGovern, Deputy Dean for Clinical Affairs, Yale School of Medicine, CEO, Yale Medicine:

Yale Medicine opposes this bill for the following reasons:

- Regulatory overreach without proper checks and balances.
- Unworkable definitions of service terminations.
- Concerns over market impact review process.

Rather than adding new regulatory burdens, Yale Medicine urges the committee to pursue meaningful reforms that streamline the CON process.

Reported by: Dave Rackliffe, Asst. Clerk

Date: March 31, 2025,