
OLR Bill Analysis

HB 7050

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

SUMMARY

This bill modifies the state's certificate of need (CON) program for health care entities administered by the Office of Health Strategy's (OHS's) Health Systems Planning Unit (HSPU). Under the program, health care entities must generally receive CON approval when establishing new facilities or services, changing ownership, acquiring certain equipment, or terminating certain services.

Principally, it:

1. allows the OHS commissioner to implement policies and procedures for the CON program while in the process of adopting them as regulations, under certain conditions (§ 1);
2. expands the definition of "termination of services" for CON purposes 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 (§ 2);
3. requires CON approval to acquire a proton radiotherapy machine, unless it is a replacement for a machine previously acquired through a CON (§ 3);
4. expressly authorizes HSPU, when reviewing CON applications for certain hospital ownership transfers that require a cost and market impact review (CMIR), to consider the CMIR preliminary and final reports and other specified related materials (§ 4);
5. 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 (§ 6); and

6. allows HSPU to implement an expedited CON review process for, among other things, applications for services, facilities, or equipment that address an unmet need in the applicant's geographic area and sets related requirements (§ 5).

EFFECTIVE DATE: October 1, 2025, except that the provisions on (1) the review of CMIR reports and an expedited CON review process take effect July 1, 2025, and (2) the definition of "termination of services" takes effect upon passage.

§ 1 — AUTHORITY TO IMPLEMENT POLICIES AND PROCEDURES

The bill allows the OHS commissioner to adopt policies and procedures on the CON program while in the process of adopting them as regulations. The commissioner may do so only if she (1) holds a public hearing at least 30 days before implementing the policies and procedures and (2) publishes notice of her intent to adopt regulations on the OHS website and e-Regulations system within 20 days after implementing the policies and procedures, which are valid until the final regulations are adopted.

§§ 2 & 3 — TRANSACTIONS REQUIRING CON APPROVAL

By law, health care institutions must generally receive approval from HSPU when establishing new facilities or services, changing ownership, acquiring certain equipment, or terminating services.

The bill adds to the types of transactions that require CON approval acquiring a proton radiotherapy machine, unless it is replacing a machine acquired through a CON. (This device uses high-energy proton beams instead of x-ray beams to treat cancer.)

The bill also expands the statutory definition of "termination of services" for purposes of the CON program. Specifically, the bill requires CON approval when terminating a service for either (1) a combined total of more than 180 days within a consecutive two-year period or (2) at least 30 consecutive days. Under current law, CON approval is needed when terminating services for more than 180 days.

§ 5 — EXPEDITED CON REVIEW PROCESS FOR CERTAIN APPLICATIONS

Regardless of existing CON laws, the bill allows HSPU to develop and implement an expedited CON process for the following applications:

1. for a service, facility, or equipment identified as having a significant unmet need in the applicant's geographic region in the most recent Statewide Health Care Facilities and Services Plan;
2. acquiring a computed tomography (CT) or magnetic resonance imaging (MRI) scanner; and
3. any other application categories HSPU designates as eligible to request an expedited review, so long as the applicant requests it and clearly demonstrates the proposal addresses a significant unmet need in the applicant's service area.

An applicant's request for an expedited review must (1) describe the target population the proposal will serve; (2) clearly demonstrate a significant unmet need for the proposal in the applicant's geographic region based on patient demographics, diagnoses, utilization, or other recent data; and (3) describe the availability of the proposed service, facility, or equipment in the applicant's primary service area.

Under the bill, HSPU must determine whether an applicant is eligible for expedited review within 30 days after receiving a request and issue a decision on the application within 30 days after receiving a complete application.

The bill requires the expedited review process to allow HSPU to (1) resolve an application by entering into an agreed settlement, approving it (with or without conditions), or requiring the applicant to go through the normal CON process and (2) not require a public hearing on an application.

If HSPU requires an applicant to apply through the normal CON process it must (1) treat the expedited review application as a properly

filed CON application, (2) issue any request for additional information within 30 days after notifying the applicant that they must use the normal CON process, and (3) follow the procedures under existing law to complete the review.

Under the bill, the expedited CON review process is not considered a contested case under the Uniform Administrative Procedure Act (UAPA) and HSPU's decision on an expedited application is not considered a final decision under the UAPA.

§§ 4 & 6 — CMIRS AND INDEPENDENT CONSULTANT FEES

Existing law requires the state to conduct a CMIR of CON applications that propose to transfer a hospital's ownership if the purchaser is (1) an in- or out-of-state hospital or a hospital system that had net patient revenue exceeding \$1.5 billion for fiscal year 2013 or (2) organized or operated for profit. An independent consultant that OHS retains conducts the review, at the applicant's expense.

The bill expressly authorizes HSPU, when reviewing these CON applications, to consider the CMIR preliminary report and the response to it, the final report, and the parties' written comments on the report.

It also increases, from \$200,000 to \$300,000, the maximum amount HSPU may charge an applicant for the cost of the independent consultant conducting the CMIR.

BACKGROUND

Related Bill

SB 1539 (File 431), favorably reported by the Public Health Committee, makes various changes to the CON program, such as (1) requiring CON approval for certain private equity acquisitions, (2) requiring OHS to create an expedited CON review process for applications to increase bed capacity, (3) prohibiting HSPU from granting a request for intervenor status in public hearings involving group practices, and (4) requiring HSPU to deny an application to terminate a hospital's labor and delivery services unless other services are available within a 25 mile radius.

COMMITTEE ACTION

Public Health Committee

Joint Favorable

Yea 21 Nay 10 (03/27/2025)