OLR Bill Analysis
sHB 5045 (as amended by House "A")*

AN ACT STREAMLINING HEALTH CARE FACILITY APPROVALS.

SUMMARY

Starting July 1, 2027, this bill replaces the Office of Health Strategy (OHS)-administered health care facility certificate of need (CON) program with a new program overseen by a panel comprised of the public health (DPH) and social services (DSS) commissioners and Office of Policy and Management (OPM) secretary or their designees. It creates a new CON program within DPH to support the review of CON applications, and requires the panel to meet at least monthly to review and decide these applications.

The bill's new process differs in various respects from the current one. For example, it:

1. eliminates required CON approval for certain service terminations, and creates a separate process to oversee only hospital service pauses or terminations;
2. makes other changes to when CON approval is required, including by modifying certain exemptions;
3. shortens the list of factors that must be considered in the CON review process;
4. generally requires a public hearing for all CON applications (unless waived by the applicant under certain conditions), instead of only a subset as under current law;
5. requires the panel to create an expedited CON review pathway for certain application categories or subcategories; and
6. expands the circumstances when a CON application for a

hospital transfer is subject to a cost and market impact review.

Under the bill, the current OHS CON program continues for applications submitted on or before June 30, 2027 (§§ 13-21). As under current law, that program is administered by OHS's Health Systems Planning Unit, with the OHS commissioner having independent decision-making authority over CON decisions. For the current program, the bill extends from June 30, 2026, to June 30, 2027, an existing CON exemption for increases in the licensed bed capacity for mental health facilities under certain situations (§ 14).

The bill also makes minor, technical, and conforming changes.

*House Amendment "A" replaces the underlying bill and makes several changes, such as (1) delaying the start date for the new CON process by six months; (2) changing the categories of activities subject to CON approval to more closely mirror current law; (3) adding applications fees, mirroring current law; (4) requiring the panel to meet at least monthly rather than quarterly; (5) adding a notice requirement for certain large group practice transactions that are not subject to CON review; (6) requiring, rather than allowing, the panel to create an expedited review pathway; (7) adding several reporting requirements; and (8) making various other changes to program deadlines and procedures.

EFFECTIVE DATE: October 1, 2026

§§ 2, 3 & 13 — CON PANEL AND DPH CON PROGRAM

The bill creates a three-person panel, placed within DPH for administrative purposes only, to make final decisions on CON-related determinations under the new process. The panel consists of the DPH and DSS commissioners and OPM secretary or their designees. The DPH commissioner or her designee serves as the panel's chairperson.

Specifically, the panel must make final decisions and rulings on the following (under the bill, except where noted):

1. CON applications submitted on or after July 1, 2027;

2. civil penalties and cease and desist orders imposed on or after that date;

3. approvals of policies and procedures effective on and after that date;

4. hospital plans for continued access to care during service terminations on and after that date; and

5. nonprofit hospital sales under existing law's procedures (see BACKGROUND).

Starting July 1, 2027, the panel generally must meet at least monthly to review and decide CON applications that were submitted to the panel at least five days before the meeting. The panel chairperson may call special meetings at other times to review and decide these applications or any other matter appropriate for panel review under the bill. The panel may cancel a monthly meeting if no CON applications or other business has been appropriately submitted to it with at least five days' notice before the scheduled meeting.

The bill also creates a CON program within DPH to support the review of CON applications. The DPH commissioner must designate a director to oversee the program. Under the bill, starting July 1, 2027:

1. anyone applying for a CON must file the application with DPH's CON program (rather than with OHS as under current law),

2. the program must prepare a report on the application, and

3. the program must make all determinations as to whether a CON is required (subject to the panel's final decision).

The program must also monitor compliance with the bill's new CON process and with any panel-issued order or decision, including any associated panel-imposed conditions. In any enforcement action under the bill (see § 10 below), the program must present the allegations at the panel's public hearing.

The provisions described below apply on and after July 1, 2027, or to CON applications filed on or after that date, as applicable.

§§ 1, 4, 14 & 18 — CON REQUIREMENT AND EXEMPTIONS

The following table compares the activities requiring CON approval under the current OHS program and the bill's new process.

Table: Activities Requiring CON Approval

Current Law	***Bill***
Establishment of a new "health care facility" (see below)	Same as current law
Transfer of ownership of a health care facility	"Change of ownership or control" of a health care facility (see below)
Transfer of ownership of a large group practice (eight or more physicians) to any entity other than a (1) physician or (2) physician group meeting certain requirements (for example, not affiliated with a hospital)	Change of ownership or control of a large group practice (with the same exceptions) (The bill does not carry forward a current provision that creates a presumption in favor of approving a CON for group practice ownership transfers when the offer was made in response to a voluntary offer for sale) See below for required notice of certain other large group practice transactions
Establishment of a freestanding emergency department	Same as current law (under bill's definition of "health care facility")
Establishment of an outpatient surgical facility	Same as current law (under bill's definition of "health care facility")
Establishment of cardiac services, including inpatient and outpatient cardiac catheterization, interventional cardiology, and cardiovascular surgery	Same as current law
Acquisition of CT, MRI, PET, or PET-CT scanners, with certain exceptions (for example, replacements under specified conditions)	Same as current law
Acquisition of non-hospital based linear accelerators, except for replacements under specified conditions	Same as current law
Increase in a facility's licensed bed capacity, except for certain mental health facilities	Same as current law, other than the exception (see below) See below for related DPH reporting

Current Law	*Bill*
	requirement
Acquisition of equipment using technology that is new to the state	Same as current law
Increase of two or more operating rooms within a three-year period by an outpatient surgical facility or short-term acute care general hospital	Same as current law
Termination of the following: • hospital inpatient or outpatient services • certain outpatient surgical services by outpatient surgical facilities or certain hospitals • a short-term acute care hospital's emergency department • inpatient or outpatient services offered by state-operated facilities that provide services eligible for Medicare or Medicaid reimbursement Under this law, a termination is the combined stop to a service for more than 180 days over a two-year period	Not required, but the bill creates a new review process for certain hospital service pauses or terminations (see § 12 below)

The bill's list of exemptions from CON requirements under the new process is generally similar to the current OHS-led process. For example, the exemptions include, among several others, (1) nursing homes and certain other long-term care facilities (they are subject to a separate DSS CON process), (2) free clinics, and (3) school-based health centers.

The bill adds new exemptions for:

1. a state-operated or nonprofit facility, institution, or provider solely providing behavioral health or substance use disorder treatment services; and

2. an association between a group practice and management service organization (MSO) in which the MSO is paid fair market value through a contract rather than being paid through profit or revenue sharing.

The bill differs from current law in some other respects, including the

following:

1. specifying that the exemption for Department of Children and Families (DCF)-funded programs only applies if DCF exclusively funds them (as under current law, psychiatric residential treatment facilities are not exempt);

2. not carrying forward a current exemption for certain nonprofits that contract with, or are certified or licensed to provide a service for, a state agency for services otherwise requiring CON approval; and

3. not carrying forward a current exemption for increases in the licensed bed capacity of mental health facilities that meet specified criteria (the bill extends the current exemption under the OHS CON program by one year).

Also, under current law, a facility seeking to relocate must first show that doing so will not substantially change the population served or the payer mix; if the facility cannot show this, then it must get CON approval. The bill instead creates a specific CON exemption for a health care facility's relocation within the same town or within 10 miles of the existing location, as long as the move does not substantially change the facility's patient population or payer mix.

Additionally, the bill requires the DPH commissioner, by January 1, 2028, to report to the governor and Public Health Committee any recommendations regarding a CON exemption for temporary increases in a hospital's licensed bed capacity due to an admissions surge that cannot be met by the hospital's existing licensed bed capacity.

"Health Care Facilities" Definition

Under the current CON law, "health care facilities" are hospitals; specialty hospitals; freestanding emergency departments; outpatient surgical facilities; state-operated facilities that provide services eligible for Medicare or Medicaid reimbursement; central service facilities; mental health facilities; substance abuse treatment facilities; any other facilities requiring a CON; and any of these facilities' parent companies,

subsidiaries, affiliates, or joint ventures, or any combination of them.

The bill specifies that the term includes hospitals' satellite locations.

It also includes within the term outpatient surgical facilities that are established by acute-care hospitals, in addition to those that are independently licensed as under current law. (While current law does not include the former in the "health care facility" definition, it requires CON approval to establish either type of outpatient surgical facility.)

"Change of Ownership or Control" Definition

For the current CON program, ownership transfers requiring CON approval are those transfers that impact or change the facility's (or other applicable group practice's) governance or controlling body, including all affiliations, mergers, or any sale or transfer of the facility's net assets.

The bill instead requires CON approval for a "change of ownership or control" of a health care facility or certain group practices (see above). This is any change in the entity's ownership, beneficial ownership, or control, specifically including:

1. a corporate merger;
2. an acquisition, by direct or indirect purchase in any way, of at least 25% of a health care entity's assets, equity, or voting shares;
3. a transfer of control of the entity's board or governing body; or
4. a real estate sale or lease of at least 20% of a hospital's assets.

CON Determination Letter

Similar to current law, the bill requires anyone who is unsure whether a CON is required to send a letter to the CON program describing the proposal and asking the program to determine if a CON is required. The person or facility making the request must give the program any information it needs to determine this. The program must make its decision within 30 days after getting the request.

Notice of Certain Large Group Practice Transactions

Starting July 1, 2027, if anyone acquires ownership or control of a large group practice and CON approval is not required (because the buyer is a physician or physician group meeting certain criteria), the acquiring person or entity must notify the CON program about the transaction.

Generally, at least 30 days before the transaction's closing, the acquiring person or entity must submit a notice with certain information about the group practice, and (unless otherwise prohibited by law) the CON program must post this information on its website. If 30 days' prior notice is not practicable due to circumstances beyond the acquiring person's or entity's control, they must give the notice as soon as practicable, but no later than 14 days after the transaction closes.

The notice must include the following:

1. the names and medical specialties of the group's physicians;
2. the names of the businesses providing clinical or managerial services as part of the group practice;
3. the address for the locations where the practice provides clinical services and a description of these services for each location;
4. the zip codes of the primary service area served by each of these locations; and
5. the resulting name, ownership, and business type of the group practice after the proposed change of ownership, control, or affiliation, including the name and business type of any person or entity that will directly or indirectly control at least 10% of the practice.

Also, the bill requires the acquiring person or entity, within 30 days after the transaction is closed (or abandoned), to report the date it occurred.

§§ 5 & 15 — REVIEW FACTORS AND CONSULTANTS

The bill requires the panel, in any deliberation on a CON application,

to determine by a preponderance of the evidence whether the application shows that the proposal is in the public's interest. In doing so, the panel must consider certain factors, consistent with any relevant DPH regulations, policies, or procedures. Specifically, the panel must consider whether the proposal:

1. promotes delivery of high-quality and cost-effective care in the applicant's primary service area;

2. promotes health care services access, including Medicaid access, in that area;

3. promotes the health care system's financial stability, including whether the proposal is financially feasible for the applicant and whether there is any evidence of the applicant's prior financial mismanagement or misconduct;

4. meets a clear public need (for the proposal and services provided under it); and

5. would result in an unnecessary duplication of services.

Current law requires consideration of a longer list of factors, including similar matters as under the bill and other factors such as (1) the applicant's past and proposed provision of health care services to relevant populations and payer mix and (2) whether the applicant has shown that the proposal will not negatively impact provider diversity and patient choice in the region. Current law, unlike the bill, also requires additional factors to be considered in deliberations for hospital ownership transfers.

Generally similar to current law, the bill allows the panel and the CON program to engage a third-party consultant to help in this analysis. But they may do so only if the CON program director, in his or her sole discretion, determines that there is a need for an expert with specialized knowledge. As under current law, the consultant must submit the bills for its services directly to the applicant, who must pay within 30 days after receiving them. The bill sets a $100,000 limit on these bills per

application.

Under the bill, before retaining a consultant, the program must notify the applicant and give them the opportunity to withdraw the application before incurring any consulting fees. The bill prohibits the panel and program from retaining a consultant for an application under the expedited review process (see § 7 below) unless the application is referred for a full review.

Starting by July 1, 2028, the DPH commissioner must annually report to the governor and Public Health Committee on consultants engaged under this process, including (1) the number, (2) the categories of CON proposals for which they were engaged, (3) the amount spent for each engagement, (4) the type of expertise sought, and (5) any reports they produced.

§§ 6 & 16 — APPLICATION PROCESS

The bill requires CON applicants under the new process to submit applications to DPH's CON program, in a way the commissioner sets. The applications must (1) include all information required under DPH regulations, policies, and procedures (see § 11 below) and (2) be submitted based on monthly deadlines, including submission dates on the 15th of each month. As under current law, applicants must submit a nonrefundable application fee ranging from $1,000 to $10,000, based on the project's costs.

Notice Posting and Determination of Application's Completeness

Under the bill, within 21 days before the CON application deadline, the applicant must give the CON program a notice for posting on the program's website. The notice must (1) identify the applicant, any known parties to the application, and the proposal's address and (2) briefly describe the proposal in plain language, including a reference to the bill's provision requiring CON approval (see § 4). If the applicant does not submit the application within 90 days after submitting this notice, the applicant must submit a new notice before applying.

Within 15 days after the application deadline, the program must

notify the applicant whether the application is deemed complete. To be deemed complete, the applicant must have submitted relevant responses to all of the application's questions and data requests. Within five days after deeming an application incomplete, the program must give the applicant written notice about any application or data elements that were inadequately addressed. The program must not review the application until the applicant resubmits it, with the missing elements, in a subsequent application period. When submitting a revised application, no additional filing fee is required unless the proposal's total cost differs from the previous projected costs, in which case the applicant must submit the net difference in fees.

The bill's notice and application process differs in several respects from the current process. Among other things, current law requires the applicant to also post a notice in the newspaper and at least two community locations.

Request for Party or Intervenor Status

Under the bill, someone wishing to request party or intervenor status in connection with a CON application must file a notice with the program within 20 days after the CON applicant's notice was posted on the program's website. The proposed party's or intervenor's notice must indicate whether they seek a hearing on the application. Someone who files this notice (or shows good cause for failing to do so) may file a petition for party or intervenor status up to 21 days after the CON applicant files the application.

After someone files a petition for party or intervenor status, the (1) panel must appoint a hearing officer to decide the matter, (2) applicant has five days to object, and (3) hearing officer must issue a decision within 15 days. If the hearing officer grants a request to intervene, the decision must set the scope of the approval, including whether the (1) intervenor's hearing request is granted or (2) intervention is limited to submitting written materials.

Program Report and Requests for Additional Information

Under the bill, the CON program must submit a report to the record

summarizing the application and analyzing each of the required review factors (see above). The program must do so at least 10 days before any public hearing and no later than 90 days after the application was deemed complete.

The bill allows the program to request additional information from the applicant while analyzing the application. These requests must not delay review timelines unless mutually agreed to by the applicant and program. Unless otherwise prohibited by law, all additional information becomes part of the public CON record.

The bill also allows the program to supplement the record with relevant data, analyses, reports, or other similar evidence within 75 days after the application is deemed complete. The applicant must have 10 days to submit a written response to this evidence, and those responses must be included in the record.

Public Hearings and Proposed Decisions

With certain exceptions, current law requires a hearing on CON applications only if requested by a specified number of people. By contrast, under the bill, the panel, or a hearing officer the panel designates, generally must hold a public hearing on any application within 90 days after the program deems it as properly filed and complete.

But the applicant may waive the right to a hearing if the applicant is the only party and no one has been granted intervenor status. The applicant must do so in writing within 30 days after the application is deemed complete. Applicants that waive a hearing also waive their right to appeal.

Under the bill, the hearing record closes no later than 10 days after the hearing adjourns, unless the applicant and program both agree to keep the record open for a period. Any hearing transcript becomes part of the record without needing to reopen it. If a hearing is not held, the record closes 10 days after the program's report is submitted.

The bill allows the panel to appoint a hearing officer to administer

any hearing under these provisions and to draft a proposed final decision (even when no hearing was held) consistent with the bill and the Uniform Administrative Procedure Act.

If a hearing officer was appointed, he or she must send the program report, the hearing record (if any), and his or her proposed final decision to the panel for its consideration at the next monthly meeting. The hearing officer must do so within 60 days after the hearing record is closed (or 150 days after the application was deemed complete, if the applicant waives the hearing). If there was no appointed hearing officer and no hearing, the program director must prepare and submit the proposed final decision. If the hearing officer's or director's proposed decision recommends conditions, the hearing officer or director, as applicable, must meet with the applicant (unless the law otherwise prohibits this) at least five days before sending the proposed decision, to preview the proposed conditions.

The bill allows applicants, within 14 days after a proposed final decision is published, to file written briefs or exceptions and request oral argument.

Panel Meeting and Decision

Under the bill, when the panel holds a meeting to review CON applications, it must vote on each application that was submitted to it at least five days earlier. The panel must make its decisions by majority vote and may:

1. approve the application with or without conditions,
2. deny it,
3. send it back to the hearing officer to further develop the record for presentation at the next meeting (this may occur no more than twice unless the panel and applicant both agree), or
4. order the program and applicant to engage in agreed settlement negotiations.

Under the bill, any proposed final decision that the panel votes to approve is automatically converted to a final decision. If the panel votes to modify a proposed final decision, it must be modified as the panel directs and posted as a final decision no later than 30 days after the vote. Unless otherwise prohibited by law, at least five days before the modified final decision is posted, the program or hearing officer must meet with the applicant to preview the conditions to be finalized.

If the docket is referred for settlement negotiations, the negotiated proposed settlement must be presented at the next panel meeting. The panel must vote on the proposed settlement and may approve it or reject it and choose another available option.

The bill does not prevent the program and an applicant from engaging in negotiations to reach an agreed settlement earlier in the process, starting 30 days after the application is deemed complete. Any negotiated agreement must be presented for review and a vote at the next panel meeting that is at least five days after the settlement's date.

The bill allows the CON program to recommend, and the panel to impose, any conditions on a CON approval that are consistent with the bill's purposes. Unless otherwise prohibited by law, the program or hearing officer must meet with the applicant at least five days before issuing a proposed final decision or final decision imposing conditions, to preview them. The applicant and any party to the application may request an amendment or relief from any condition due to changed circumstances, hardship, or other good cause. The panel may grant or deny the request, and its decision is not subject to appeal.

Under the bill, if there was a hearing on the application (including in cases where the panel remanded the matter to further develop the record), any final decision is subject to appeal to Superior Court.

Deadline Extension

The bill specifies that the CON program and applicant may agree to extend any of these deadlines.

§ 7 — EXPEDITED REVIEW PATHWAY

The bill requires the panel, by January 1, 2028, to create an expedited review pathway for certain CON application categories or subcategories. This applies to:

1. the relocation of a health care facility more than 10 miles from its current location and outside its current town;
2. an increase in inpatient or outpatient hospital beds;
3. the acquisition of CT, MRI, PET, or PET-CT scanners by any person, physician, provider, short-term acute care general hospital, or children's hospital (when CON approval is required for these acquisitions);
4. an increase of two or three operating rooms within a three-year period by an outpatient surgical facility or short-term acute care general hospital; and
5. any other category the DPH commissioner designates in regulations.

Applicants may request expedited review starting January 1, 2028, and must submit their CON applications under the same deadlines, application fee, and notice of intent requirements as described above for the standard pathway (see § 6). Applications under the expedited pathway are not entitled to a hearing before a hearing officer, except the (1) program may hold a hearing before an appointed hearing officer no later than 30 days after deeming the application complete, without affecting other timelines, or (2) panel may transfer the application from the expedited pathway to the standard pathway described above.

Within 15 days after an expedited review is submitted, the program must notify the applicant whether the application is deemed complete and whether it qualifies for expedited review.

If the program deems an application incomplete, within five days it must give the applicant written notice about which elements of the

submitted application or data were inadequate. The program must not review the application until the applicant resubmits it, with the missing elements, in a subsequent application period.

If the program deems the application complete but ineligible for expedited review, it must review the application under the bill's standard process. On the other hand, if the program deems the application eligible for expedited review, it must complete its analysis, and the director must issue a proposed final decision, within 60 days after that determination and present the application to the panel at its next meeting.

Request for Party or Intervenor Status

As with the standard pathway, the bill allows anyone to seek intervenor or party status for expedited applications, but under a streamlined process. The person must file the request within 14 days after the CON application was filed.

After someone makes such a request, the (1) panel must appoint a hearing officer to review the matter, (2) applicant has five days to respond, and (3) hearing officer must make a decision within five days.

If the hearing officer grants the request, the application must be removed from the expedited pathway and processed through the standard one (and the referral date to the standard pathway is considered to be the date the application was deemed complete). In making the decision, the hearing officer must consider the unique nature of the expedited process and potential burden of allowing intervention.

Panel Decision

The bill allows applicants under the expedited process to file written briefs or exceptions and request oral argument on the proposed final decision, no later than seven days after it is published. The program must submit to the panel the proposed final decision and any of the applicant's subsequent submissions.

Under the bill, the panel must vote on an expedited application and

approve it (with or without conditions), deny it, remand it to the program to further develop the record for the next panel meeting, remand it to further develop the record under the standard process, or order the program and applicant to engage in agreed settlement negotiations. The panel must base its decision on the same standards and guidelines that apply to the standard pathway.

The bill applies to expedited approvals similar provisions as under the standard process on (1) the automatic conversion of approved proposed final decisions to final decisions, (2) panel decisions that are voted to be modified, (3) dockets remanded for further development of the record or referred for settlement negotiations, (4) settlement negotiations earlier in the process, (5) the panel's authority to set conditions on its approval, and (6) the applicant's or party's ability to request an amendment or relief from any condition. (In a few cases, the deadlines under the expedited process are shorter.)

Additionally, for any docket remanded for processing under the standard process, the date of the panel's vote is the date the application is considered to be deemed complete under the standard process.

(PA 25-2, unchanged by the bill, created a separate OHS-administered emergency CON process for bankruptcy-related hospital ownership transfers.)

Deadline Extension

As under the standard process, the program and applicant may agree to extend any of these deadlines.

Reporting Requirement

The bill requires the CON program, by July 1, 2029, and in consultation with relevant stakeholders, to report to the Public Health Committee on the expedited pathway, including (1) the average time from application submission to final decision, (2) the number of applications processed through the expedited process compared to the standard process, (3) the number of applications filed under the expedited pathway that were transferred to the standard pathway and

the reasons why, and (4) any recommended changes to the expedited pathway.

§§ 8 & 17 — VALIDITY, REVOCATION, AND RELATED MATTERS

Generally mirroring current law, under the bill:

1. a CON is valid only for (a) the proposal described in the application and (b) two years from the date it is issued;
2. the CON holder must give the program any information it requests about the proposal's development during these two years and for 30 days after it expires;
3. if the CON holder asks, the program may extend the CON's duration as it deems necessary, subject to a public comment period (unlike current law, the bill does not require a public hearing on these requests if a certain number of people ask for it);
4. the program may withdraw, revoke, or rescind the CON, under the Uniform Administrative Procedure Act, if it determines that the (a) project has not substantially begun during a valid CON period or (b) CON holder has not made a good-faith effort to complete the proposal as approved; and
5. a CON is not transferable or assignable and the project cannot be transferred to someone else.

§§ 9 & 20 — COST AND MARKET IMPACT REVIEW

Under a generally similar process as current law, the bill requires the CON program to conduct a Cost and Market Impact Review (CMIR) of certain CON applications that propose to transfer a hospital's ownership or control, to examine the businesses and relative market provisions of the transacting parties. The bill's requirement also applies to notice of material change filings (see BACKGROUND) with the attorney general's office for these same transfers.

In either case, the bill's requirement applies to hospital ownership transfers when the purchaser is (1) an in- or out-of-state hospital or a

hospital system that had net patient revenue exceeding $1 billion for FY 25 or (2) organized or operated for profit. (The current threshold for (1) is $1.5 billion revenue for FY 13.)

The CON program must hire an independent consultant to conduct the review at the purchaser's expense, with similar requirements as under current law, except the maximum bills per application are $250,000 under the bill compared to $200,000 currently.

The bill requires the program to develop a set of data requests for these CMIRs. The applicant must submit all necessary CMIR data when the applicant begins the CON application process or submits its material change notice, whichever is earlier. The program must review the data submission for completeness within 30 days, and notify the applicant about any missing elements.

Under the bill, the CON program must submit a preliminary CMIR report to the applicant and the attorney general within 90 days after the data submissions are complete. The applicant then has 15 days to respond in writing. After the applicant responds (or waives the opportunity to do so), the program must make the preliminary report and the applicant's comments public. Within 120 days after the CON application was completed, the program must issue a final CMIR report and make it part of the public CON record for that application.

In several respects, the bill's CMIR provisions mirror those under current law. These include provisions on the:

1. confidentiality of submitted nonpublic information and limited exceptions to it;
2. factors that may be examined in the review, such as the parties' size and market share, prices for services, and service quality;
3. attorney general's authority, after the final CMIR report is issued, to investigate certain matters (for example, possible antitrust violations) or take related actions; and
4. required stay of the proposed transfer for a 30-day period after

the CMIR final report is issued or while a court case brought by the attorney general is pending.

§ 10 — INVESTIGATIONS AND ENFORCEMENT

The bill requires the CON program's director to investigate all inquiries about compliance with the bill's new CON process. It gives the panel similar enforcement authority as OHS has under current law to investigate alleged CON violations. For example, it allows the panel, or its authorized agent, to (1) administer oaths and take testimony under oath relating to the matter under investigation and (2) subpoena witnesses or require the production of documents or other materials, subject to judicial enforcement.

Similar to current law, it sets a civil penalty (through proceedings brought by the CON program) for any person or health care facility or institution that negligently (1) undertakes an activity without a required CON approval or (2) fails to comply with a CON decision's terms or conditions or a panel-approved agreed settlement. It also sets this penalty for any person or entity who negligently fails to submit a required notice about (1) changes in ownership or control of a large group practice that is not subject to CON approval (see § 4) or (2) a hospital's pause for more than 90 days or indefinite termination of a service line (see § 12). As under current law, the maximum penalty is $1,000 per day. The CON program must present allegations of this negligence at a hearing before the panel.

The bill generally mirrors current procedures (and related deadlines) for these penalties, such as prior notice, the right to a hearing, and the right to appeal. It similarly mirrors a current provision that makes failing to pay the penalty after the final assessment grounds for deducting Medicaid payments.

It also generally mirrors current law for cease and desist orders, by allowing the CON program to pursue this remedy when the director (or his or her agent) has received information or reasonably believes that someone has or is violating the bill's new CON procedures or requirements. The bill includes prior notice, hearing, and appeal

provisions that are similar to current law, with the panel holding the hearings and issuing the order.

The bill allows any civil penalty proceeding and investigation or cease and desist proceeding to be held together in one proceeding.

§§ 11 & 16 — REGULATIONS AND POLICIES AND PROCEDURES

The bill requires the DPH commissioner to adopt regulations to implement the new CON process. It also allows her to implement policies and procedures while in the process of adopting regulations, as long as she first convenes a working group by January 1, 2027, with relevant stakeholders to give input. The policies and procedures are valid for a maximum of two years or until the regulations are adopted, whichever is earlier.

The bill eliminates OHS's ability under current law to implement policies and procedures while adopting regulations for the CON process.

§§ 12 & 19 — HOSPITAL SERVICE PAUSES OR TERMINATIONS

Under current law, in addition to required CON approval for certain service terminations (see above), health care facilities must give OHS 60 days' notice of other service terminations, with the specific procedures differing based on whether the service originally needed CON approval.

By contrast, the bill's new process generally addresses service terminations only by hospitals and does not set related notification requirements for other facilities. It allows a hospital to temporarily pause a service for up to 90 days. If the hospital intends to pause a service line for longer than that or to indefinitely terminate a service line, it must generally notify the CON program at least 90 days in advance. If 90 days' notice is not practicable due to circumstances beyond the hospital's control (such as a provider's death), the hospital must give notice as soon as practicable but no later than 14 days. Under the bill, a "service line" is a category of inpatient or outpatient service, except for emergency department services.

The notice may be in writing or electronic, and must include:

1. a description of the service to be paused or terminated;
2. current and historical utilization rates for it;
3. the anticipated impact of the pause or termination on people and health care facilities in the hospital's primary service area;
4. the date set for the pause or termination and, if applicable, the anticipated date to resume the service;
5. a detailed account of any community engagement and planning that has been done or that is scheduled to take place before the pause or termination; and
6. any other information the director requires.

The hospital must also send a copy of the notice to (1) the attorney general's office, DSS, and the Office of the Healthcare Advocate, and (2) if it relates to a behavioral health or substance use disorder treatment service, the Department of Mental Health and Addiction Services and Behavioral Health Advocate.

Under the bill, the program must hold a public hearing on the proposed pause or termination, the impact on the hospital's primary service area, and the proposed plan for ensuring continued access to high-quality affordable health care in that area. The hearing record and any submitted public comments must inform the panel's review of the proposal plan and any imposed conditions (see below).

Plan for Continued Access

The bill requires a hospital, generally at least 60 days before the pause or termination, to submit a plan for ensuring access to the service afterwards. If the service ended due to an unplanned event outside of the hospital's control, the hospital must submit the plan within 14 days. The plan must include:

1. information on service utilization before the proposed pause or

termination;

2. information on the location and service capacity of alternative sites that provide the service and travel times to them;

3. an assessment of transportation needs after the pause or termination and a plan to meet them;

4. a protocol that details ways to maintain continuity of care for patients and describes how patients in the hospital's primary service area will get the service at other sites; and

5. a communication plan to ensure that all affected patients in that area are aware of the pause or termination, where else they may get the service, and the hospital's available help to get it.

Under the bill, the CON program must review the hospital's plan to determine if it ensures continued access to the service. Within 10 days after receiving the plan, the program must review it and give the hospital and panel written recommendations to approve the plan, modify it, or impose conditions on it.

The panel then must hold a meeting on the plan within 10 days. The hospital may submit a response to the recommendations at the meeting. Within 10 days after the meeting, the panel must make its decision, and the panel's decision approving or modifying a plan is a final decision subject to appeal to Superior Court.

The CON program must monitor the plan's implementation. If the hospital fails to implement any aspect of the approved plan, the program may impose a performance improvement plan. The hospital may be subject to civil penalties (see § 10 above) for failure to comply with the performance improvement plan and continued failure to perform under the plan.

BACKGROUND

Nonprofit Hospital Sales

Under existing law, a nonprofit hospital needs approval from the

OHS commissioner and attorney general before entering into an agreement to transfer a material amount of its assets or operations or change control of its operations to a for-profit purchaser. Among other things, the hospital and purchaser must submit a CON determination letter as part of this process. OHS and the attorney general's office must evaluate several factors in deciding whether to approve the transaction (CGS § 19a-486 et seq.).

Notice of Material Change

Existing law requires prior notice to the attorney general before parties may complete a transaction resulting in (1) a material change to a physician group practice's business or corporate structure or (2) an affiliation between one hospital or hospital system and another, so the attorney general can review the transaction under the antitrust laws (CGS § 19a-486i).

Related Bill

sHB 5030 (File 680), favorably reported by the Appropriations Committee, eliminates OHS and transfers the CON program to DPH.

COMMITTEE ACTION

Public Health Committee

Joint Favorable

Yea	22	Nay	10	(03/09/2026)

Finance, Revenue and Bonding Committee

Joint Favorable

Yea	43	Nay	11	(04/14/2026)