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Keeping Connecticut Healthy

DPH

Connecticut Department of Public Health

Certificate of Need Informational Forum

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Today's Agenda

- Pre-2010 Certificate of Need (CON) laws and process
- Existing CON laws and process
- For-Profit conversion process

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Pre-2010 CON Basics

CON authorization was required for:

- Transfer of ownership or control (e.g. joint venture between hospitals and physicians and hospital to hospital affiliation)
- Additional function or service (e.g. establishing imaging center outside town location)
- Termination of a service (e.g. Mental health/substance abuse facility/program closure)
- Reduction in total bed capacity
- Expenditure exceeding $3 million (e.g. Master Facility Plan, Cyberknife)
- Acquisition of equipment: CT, PET, PET/CT, MRI, linear accelerator, new technology to the state

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Pre-2010 Exempt CONs

- Clinical labs
- Outpatient dialysis centers
- Home health agencies
- Nursing & rest homes
- DCF-funded or licensed programs
- DMHAS-funded programs
- Community health centers
- School-based health centers
- Certain outpatient rehabilitation agencies

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Pre-2010 CONs Waived

- Electronic medical records systems
- Parking lots/garages and land
- Renovations within clinical areas (no new services)
- Non-medical equipment (i.e., chillers, HVAC)
- Replacement of specific imaging equipment or linear accelerators when below $3M and already has CON authorization or a CON determination
- Certain relocations of hospital services within primary service area
- Establishment of a medical foundation

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New CON Laws

- Simplify CON procedural requirements
- Focus CON oversight on “safety net” services and potential areas of over-utilization
- Develop new CON criteria

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CON is required for:

- Establish new health care facility;
- Transfer of ownership of a health care facility;
- Transfer of ownership of a group practice(8 or more) to any entity other than a physician or group of physicians;
- Establish an outpatient surgical facility;
- Increase in licensed bed capacity;
- Increase of two or more ORs within any 3 year period
- Establish Freestanding Emergency Dept. or terminate an Emergency Dept.;
- Termination of hospital inpatient/outpatient services including behavioral health services
- Establish inpatient or outpatient cardiac services;
- Acquisition of imaging equipment;
- Acquisition of equipment utilizing technology that has not previously been utilized in the state; and
- Acquisition of non-hospital based linear accelerators.

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CON is not required for: New exclusions/revisions

- Replacement of imaging equipment (must have a CON or DTR)
- Hospice
- Transplant services
- Free clinics
- Non-Profit facility or provider that has a contract with, or is certified or licensed to provide a service for, a state agency
- Acquisition of cone-beam dental imaging equipment
- Termination of some/all services provided by surgical facility
- Termination of services which DPH requested license to be relinquished
- Relocation of facilities if demonstrated that population and payer mix will not substantially change
- Termination of service notification

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CON is not required for: Pre-2010 exclusions

- HCF owned and operated by federal government
- Establishment of private physician office
- HCF operated by religious group
- Residential care homes, nursing homes and rest homes
- ALSAs
- Home health agencies
- Outpatient rehabilitation facilities
- Outpatient chronic dialysis services
- School-based health centers, community health centers, for-profit outpatient clinics, and FQHCs
- DCF licensed or funded programs (not PRTFs)
- HCF operated by nonprofit educational institution exclusively for students, faculty and staff
- Outpatient clinic operated exclusively by a municipality/board of education
- Residential facility for the mentally retarded

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CON Criteria prior to 10/1/13

- Demonstrate a clear public need for the facility/service;
- Consistent with the Statewide Facilities & Services Plan;
- Demonstrate how it will impact the financial strength of the health care system in the state;
- Demonstrate improvement to quality, accessibility and cost effectiveness of health care delivery in the region;
- Past and proposed provision of services to relevant patient populations and payer mix;
- Identify population to be served by project and its need for proposed services;
- Utilization of existing health care facilities and services in service area; and
- Demonstrate that it will not result in unnecessary duplication.

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CON Criteria 10/1/13

- Whether the proposed project is consistent with any applicable policies and standards adopted in regulations by the Department of Public Health;
- The relationship of the proposed project to the state-wide health care facilities and services plan;
- Whether there is a clear public need for the health care facility or services proposed by the applicant;
- 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;

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CON Criteria 10/1/13

- 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 Medicaid program;
- 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;
- 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;

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CON Criteria 10/1/13

- The utilization of existing health care facilities and health care services in the service area of the applicant; [and] (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
- 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

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CON Criteria 7/1/14

- Demonstrate that the proposal will not negatively impact the diversity of health care providers and patient choice in the geographic region; and
- Demonstrate that any consolidation of market share resulting for the proposal will not adversely affect health care costs or accessibility of care.

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For-Profit Conversion Process

- For-profit purchaser and nonprofit hospital hold a hearing on the contents of its CON determination letter in the municipality where the hospital is located
- Nonprofit hospital and purchaser concurrently submit CON determination letter to DPH and AG
- DPH and AG review letter and determine if approval required
- DPH and AG transmit application form to Applicants
- No later than 60 days after the date of mailing of application form, Applicants must file application with DPH and AG
- DPH and AG review application and determine if complete
- DPH and AG provide written notice to Applicants of deficiencies within 20 days of receiving application

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For-Profit Conversion Process

- DPH and AG jointly publish summary of application in newspaper located within 25 days of receiving complete application
- DPH and AG jointly conduct one or more public hearings, one in primary service area of nonprofit hospital
- DPH and AG render decision within 120 days of deeming application complete or is automatically approved
- The commissioner and the Attorney General may place any conditions on the approval of an application that relate to the purposes of this section

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Conversion criteria

The DPH commissioner shall deny an application filed pursuant to subsection (d) of section 19a-486a unless the commissioner finds:

(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 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

(4) certificate of need authorization is justified in accordance with chapter 368z.

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