



DEPARTMENT OF PUBLIC
HEALTH, OFFICE OF
HEALTH CARE ACCESS

CERTIFICATE OF NEED APPLICATION GUIDE

A guide to improve public understanding of the CON process

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Please note nothing in this document should be construed as legal advice and does not modify or supplant any state statute, regulation, or departmental policy.

Office of Health Care Access
New 1-13-2016

SECTION I. INTRODUCTION

CONTACT INFORMATION & DIRECTIONS

OFFICE OF HEALTH CARE ACCESS
410 CAPITOL AVENUE
MS # 13HCA
HARTFORD, CT 06134-0308

PHONE: (860) 418-7001
FAX: (860) 418-7053
EMAIL: OHCA@ct.gov
WEBSITE: www.ct.gov/dph

DIRECTOR: Kimberly Martone,
PHONE: (860) 418-7000

DIRECTIONS TO 410-474 CAPITOL AVENUE

The 410-474 Capitol Avenue complex is a series of renovated, brick, turn-of-the-century, factory buildings located on Capitol Avenue in Hartford, approximately one-half mile west of the State Capitol.

Entrance driveways are located between Hartford Office Supply and building 410, and buildings 450 and 460. After entering, proceed to the security station located in the center of the lot. Visitors to a particular agency should park in the assigned visitors parking spaces, and sign in with a security guard or receptionist to obtain a guest pass. If the visitors' spaces are full, please see a security guard for assistance.

From I-91 (north or south) and from east of the river

In Hartford, take I-84 west, in less than a mile from the I-91 interchange, get off at Asylum Street, Exit 48. At the signal at the bottom of the ramp, make a gradual right, staying to the left of the fork on to Farmington Avenue. Take an immediate left at the signal on to Broad Street.

Take the first right at the signal on to Capitol Avenue. The Capitol Avenue complex is two blocks on the right just past the signal at the base of Putnam St.

From the West

Take I-84 east to Capitol Avenue, Exit 48B, bearing right toward the Capitol area and staying to the right of the ramp. At the bottom of the ramp, turn right on to Capitol Avenue. The Capitol Avenue complex is on the right just past the signal at the base of Putnam Street.

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

Jewel Mullen, M.D., M.P.H., M.P.A.
Commissioner



Dannel P. Malloy
Governor
Nancy Wyman
Lt. Governor

Office of Health Care Access

August 19, 2015

Dear Certificate of Need Interested Party:

The Connecticut Certificate of Need (CON) Guidebook, a publication of the Connecticut Department of Public Health, Office of Health Care Access, is provided to you in an effort to help clarify the application process and make available all the most relevant, up-to-date information in one source.

The CON program is a regulatory and planning tool that aims to prevent costly duplications of services. It protects access to and continuity of health care services for Connecticut's residents. The program additionally affords members of the public the ability to keep abreast of changes to health care services in their communities and the opportunity to voice their opinions and insights on those changes. Overall, the CON program helps guide community-based planning for health services and facilities.

I encourage you to review this guide completely before starting the CON process as it contains important instructions that will assist you in the preparation of your application. Compliance with all requirements and providing useful, accurate information will help facilitate the process. This guide, however, should not be considered legal advice.

If you have any questions, please contact our office at (860) 418-7001 or ohca@ct.gov.

Thank you for taking the time to review this guide.

Sincerely,

A handwritten signature in black ink, appearing to read "Kimberly R. Martone".

Kimberly R. Martone
Director of Operation



Phone: (860) 509-8000 • Fax: (860) 509-7184 • VP: (860) 899-1611
410 Capitol Avenue, P.O. Box 340308
Hartford, Connecticut 06134-0308
www.ct.gov/dph

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ABOUT THE OFFICE OF HEALTH CARE ACCESS

Mission Statement and Objectives

The Office of Health Care Access (OHCA) is an office of the Department of Public Health. OHCA's mission is to ensure that the residents of Connecticut have access to a quality health care delivery system.

Office Functions

To fulfill its mission, OHCA employs a multi-pronged approach. It maintains oversight and regulatory responsibilities to ensure access to health care services. It also serves a planning function, mapping out health care needs and services in the state. OHCA additionally collects and analyzes data, reports on trends and regulates certain health care-related projects.

Regulatory Function

One of OHCA's major functions is the administration of the certificate of need (CON) program, which regulates certain health care services in Connecticut. When health care services are initiated, terminated, or ownership of a health care provider is transferred, a CON application is often required (see Section II on page 7 of this guide for more detailed information). CON applications are meant to elicit information regarding three primary areas: public need, access to care and financial feasibility. The CON program strives to ensure access for needed services while limiting duplication or excess capacity, which has been shown to increase health care costs for consumers—and, in turn, the state. The CON review process also considers the impact of a project on the health care consumers in a project's area. A CON review will also analyze whether the project is financially feasible for the applicant and/or for the financial strength of the state as a whole.

Connecticut General Statutes authorize OHCA to conduct hearings and investigations in order to carry out its regulatory function. As part of this, OHCA may elect to hold a public hearing on any application for a CON, including subpoenaing witnesses and requiring the production of records.¹ Once OHCA has issued a decision on an application the compliance unit of OHCA may also follow-up to ensure any conditions imposed are followed. Additionally, OHCA may, after the opportunity for a hearing, pursue civil penalties against parties who are non-compliant with the conditions in an agreed settlement or fail to file a CON.²

Planning

As part of its planning function, OHCA seeks to guide and coordinate health care resources in the state. The two primary planning reports produced by the Department of Public Health and OHCA are the Statewide Facilities and Services Plan and the Statewide Health Care Facilities and Services Inventory. The Statewide Facilities Plan is a blueprint for health care delivery. It contains standards and guidelines as best practices for specific services. The assessment helps establish the health status of the state and provides the basis for the Connecticut State Health Improvement Plan. The work

¹ Investigative powers. CONN. GEN. STAT. § 19a-633 (2015).

² Failure to file data or information. Civil penalty. CONN. GEN. STAT. § 19a-653 (2015).

behind these two efforts comprises our state health planning initiative, *Healthy Connecticut 2020*. Together, these plans provide a mechanism for identifying community needs, assessing the health care system's capability of meeting those needs, and allow for the allocation of the resources necessary to address them.

Data Collection, Analysis and Reporting

OHCA collects a wide range of data from hospitals and other providers. This data is used to report on trends in effort to keep the public, policy makers and health care providers informed of the state of health care resources in Connecticut. The two primary data reports produced by OHCA are the state-wide health care facility utilization study and an annual acute care hospital financial stability report, which are available on the Department of Public Health's website. The utilization study is an examination of available health care data that report on current trends to help identify residents who may be underserved or have limited access to specific health care services.

The report presents a number of key findings OHCA also collects information on discharge data and inpatient data from all 28 acute-care hospitals across the state. Additionally, as of July 1, 2015, OHCA collects patient identifiable encounter data from outpatient surgical facilities to comply with Conn. Gen. Stat. 19a-654.

SECTION II. WHEN IS A CON REQUIRED?

According to Conn. Gen. Stat. section 19a-638, a CON is required in 15 circumstances. They can be grouped into four over-arching categories: **when acquiring certain types of equipment; initiating services or increasing existing capacity; terminating services; or transferring ownership of health care facilities.**

A certificate of need is required for the following:³

1. Establishment of a new health care facility (see the Glossary on page 37 for the definition of “health care facility”)
2. Transfer of ownership of a health care facility
3. Transfer of ownership of a large group practice to any entity other than a physician or group of physicians
4. Establishment of a freestanding ED
5. The termination of inpatient or outpatient services offered by a hospital, including termination by a short-term acute care general hospital or children’s hospital of inpatient and outpatient mental health and substance abuse services
6. Establishment of an outpatient surgical facility
7. Termination of surgical services by an outpatient surgical facility unless the termination is due to insufficient patient volume or the termination of any subspecialty surgical facility. A list of outpatient surgical facilities can be found at <http://www.ct.gov/dph/cwp/view.asp?a=3902&q=557564&dphNav=|56694|>.
8. Termination of an emergency department by a short-term acute care general hospital
9. Establishment of cardiac services (see the Glossary on page 37 for the definition of “cardiac services”)
10. Acquisition of computed tomography scanners, magnetic resonance imaging scanners, positron emission tomography scanners or positron emission tomography-computed tomography scanners
11. Acquisition of nonhospital based linear accelerators
12. Increase in the licensed bed capacity of a health care facility
13. Acquisition of equipment utilizing technology that has not previously been utilized in the state
14. Increase of two or more operating rooms within any three-year period by an outpatient surgical facility or by a short-term acute care general hospital
15. Termination of inpatient or outpatient services offered by a hospital or facilities operated by the state that are eligible for reimbursement under the Social Security Act

The following tables provide further detail on the circumstances under which an entity is required—or not required—to apply for a certificate of need. Note: there are entities exempted from the CON program by Conn. Gen. Stat. section 19a-638(b) that would otherwise be required to submit an application. The list of exempt actions can be found on page 10.

³ Please see Conn. Gen. Stat. sec. 19a-638 for the complete language and requirements

ACQUIRING EQUIPMENT

Applies to....	Acquiring	Needs CON?
All health care entities *	<ul style="list-style-type: none"> • Computed tomography (CT) scanners • Magnetic resonance imaging (MRI) scanners • Positron emission tomography (PET) scanners • Positron emission tomography-computed tomography (PET-CT) scanners 	YES, unless the equipment is used exclusively for scientific research not conducted on humans or such scanner is a replacement for one previously acquired through a CON or determination
All health care entities *	<ul style="list-style-type: none"> • Equipment utilizing technology that has not previously been used in the state 	YES
Entities that have already obtained imaging equipment	Replacement of existing imaging equipment that was acquired through the CON process or a certificate of need determination	NO, but OHCA must be notified of the date on which equipment is replaced or disposed ⁴

* Excluding actions exempt from the CON process under Conn. Gen. Stat. section 19a-638(b), which are listed on page 10 below.

INITIATING SERVICES OR INCREASING CAPACITY

Applies to....	Planning to...	Needs CON?
All health care entities *	Establish a new health care facility, such as a hospital licensed by DPH, a mental health or substance abuse treatment facility, a freestanding ED or specialty hospital, among others. Please note that due to the complexity and uniqueness of the facilities listed, there is only a supplemental form designated for those establishing a mental health or substance abuse treatment facility. All other such facilities still must submit a CON Main form. OHCA will then send a follow-up letter /application form tailored to the specific facility.	YES
All health care entities *	Establish cardiac services, including	YES

⁴ An act concerning hospitals, insurers and health care consumers, 2015 Conn. Acts 146 § 39 (Reg. Sess.); Certificate of need. CONN. GEN. STAT. § 19a-638(b)(18) (2015).

	catheterization, interventional cardiology and cardiovascular surgery (see Glossary on page 36 for full definition).	
All DPH-licensed facilities*	Increase licensed bed capacity of a health care facility	YES
All health care entities *	Establish an outpatient surgical facility (as defined by Conn. Gen. Stat. § 19a-493b)	YES
Outpatient surgical facilities, short-term acute care general hospital	An increase of two or more operating rooms within any three-year period	YES

* Excluding actions exempt from the CON process under Conn. Gen. Stat. section 19a-638(b), listed below on page 10.

TERMINATING SERVICES

Applies to....	Planning to terminate...	Needs CON?
Hospitals	Mental health or substance abuse services	YES
Hospitals	Inpatient or outpatient services	YES
Outpatient surgical facility	Surgical services	YES unless it is terminated due to insufficient patient volume or termination of a subspecialty, in which case notification to OHCA is required (see page 15 for more information)
Short-term acute care general hospital	An emergency department	YES
Hospitals operated by the state that are eligible for reimbursement under the Social Security Act	Inpatient or outpatient services	YES
Health care facilities*	A service that originally required CON approval to initiate	NO, but must submit a modification request (see page 14 for more information)

* Excluding actions exempt from the CON process under Conn. Gen. Stat. section 19a-638(b), listed below page 10.

CHANGES IN OWNERSHIP

Applies to....	Planning to...	Needs CON?
All health care entities*	Transfer ownership of a large group practice, one which is comprised of eight or more full-time equivalent physicians. For a full description see Pub. Act 15-146 sec. 36-37.	YES unless transfer is to a physician or group of physicians ⁵
All health care entities *	Transfer of ownership of a health care facility (for a full list of health care facilities see Conn. Gen. Stat. § 19a-630 and Pub. Act. 15-146)	YES
Not-for-profit hospitals	Transfer a material amount of its assets or change control of operations to a for-profit entity. ⁶	YES (see page 22 for more information)

* Excluding actions exempt from the CON process under Conn. Gen. Stat. section 19a-638(b), listed below page 10.

EXEMPT ACTIONS/ENTITIES

According to Conn. Gen. Stat. § 19-638(b), a CON is **not** required for:

- Health care facilities owned and operated by the federal government, such as a Veteran's Health Administration (VA) Hospital
- The establishment of offices by a licensed private practitioner or group, unless the establishment will result of a group of eight or more physicians that will be owned by a non-physician or group.
- Facility operated by a religious group that exclusively relies on spiritual means for healing
- Residential care homes, nursing homes and rest homes
- Assisted living services agency
- Home health agencies
- Hospice services
- Outpatient rehabilitation facilities
- Outpatient chronic dialysis

⁵ The group of two or more physicians must be legally organized in a partnership, professional corporation or limited liability company formed to render professional services and not employed by or an affiliate of any hospital, medical foundation, insurance company or other similar entity. Pub. Act 15-146 sec 37.

⁶ Please see Conn. Gen. Stat. § 19a-486 for additional requirements

- Transplant services
- Free clinics
- School or community-based health centers and not for profit outpatient clinics
- A program licensed or funded by the Department of Children and Families (except psychiatric residential treatment facilities)
- Nonprofit facilities that have a contract with or is certified or licensed to provide a service for a state agency (except short-term acute care general or children's hospitals operated by the state that provides services that are eligible for reimbursement under Title XVIII or XIX of the Social Security Act)
- Health care facility operated by a nonprofit educational institution exclusively for students, faculty and staff of such institution
- An outpatient clinic operated exclusively by or for a municipality
- A residential facility for persons with intellectual disability licensed by the Department of Developmental Services and certified to participate in Medicaid as an intermediate care facility
- Replacement of existing imaging equipment if such equipment was acquired through CON approval or determination, provided OHCA is notified of the date on which the equipment is replaced and/or disposed of
- Acquisition of cone-beam dental imaging equipment that is to be used exclusively by a dentist
- The partial or total elimination of services provided by an outpatient surgical facility
- The termination of services for which DPH has requested the facility to relinquish its license, or
- Acquisition of any equipment by any person that is to be used exclusively for scientific research that is not conducted on humans.

RELOCATION OF A FACILITY OR SERVICES

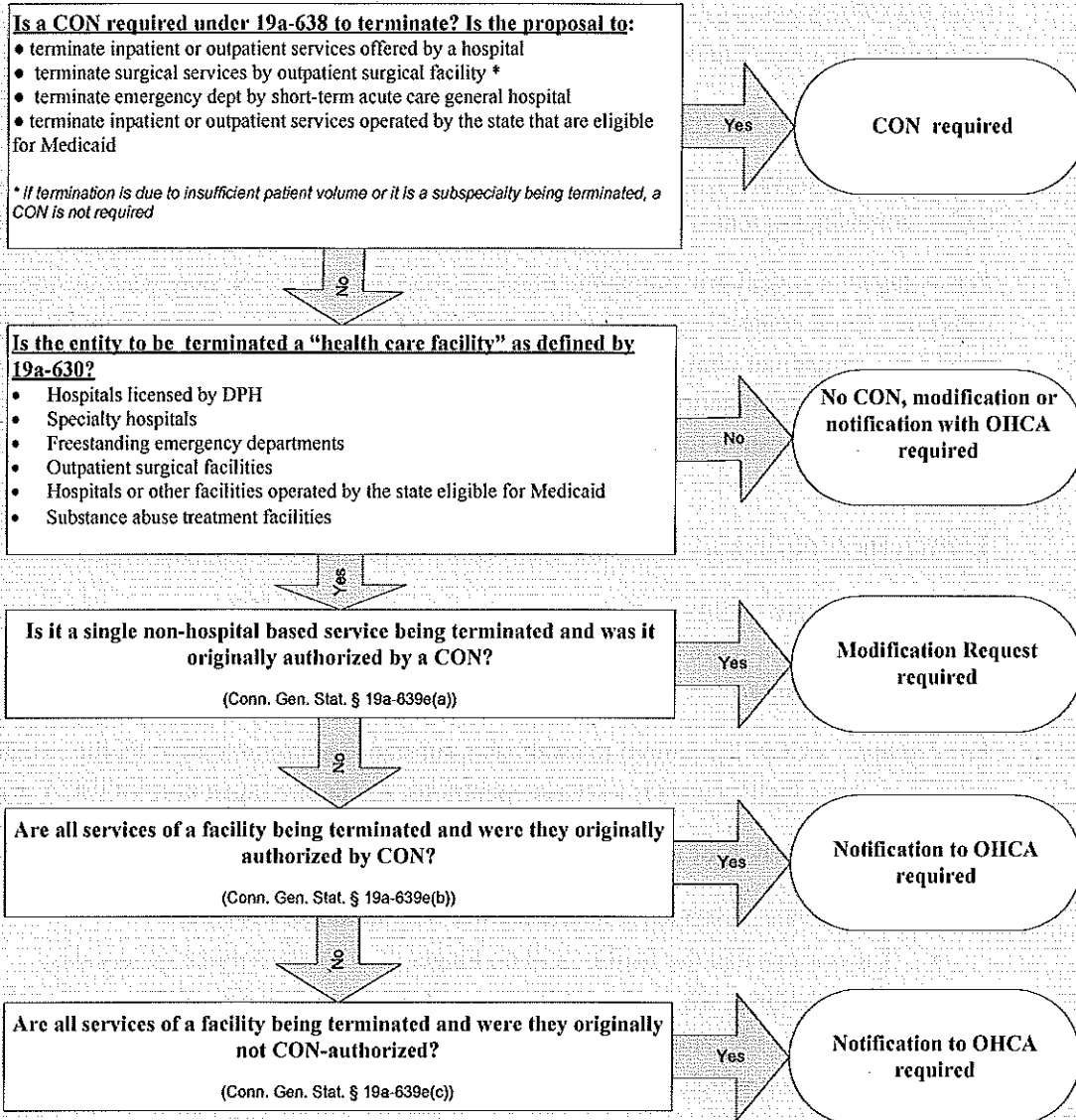
If a health care facility is considering relocating, a CON may be required. Prior to relocating, the health care facility must request that OHCA make a determination as to whether a CON is necessary. Facilities may do this by submitting a CON Determination Form for Relocation of a Health Care Facility, which is available on the OHCA website under "OHCA Forms." The facility will need to provide information demonstrating the impact the relocation will have on the population served by the facility and the payer mix (i.e., the proportion who are self-pay, privately insured, insured by Medicaid, etc.) of those being served.⁷

Moving imaging equipment does not require a CON. However, a CON is required when moving a Linear Accelerator from a hospital to a non-hospital location.

⁷ Proposed relocation of a health care facility, CONN. GEN. STAT. § 19a-639c (2015).

TERMINATION OF A FACILITY OR SERVICES

What is Required to Terminate a Service or Facility?



See pages 15 to 16 for more information on notifications.

In addition to the terminations requiring a full CON application, certain health care facilities must also notify OHCA when terminating a service or facility. **Please note that if the termination would require a CON under Conn. Gen. Stat. § 19a-638 (e.g., a short-term acute care hospital proposing terminating an emergency department), the facility must still apply for a full CON.** The notification requirements depend on whether the initial establishment required a CON and whether the entire facility or just a service is being terminated. Health care facilities that are exempt from the CON process as listed under Conn. Gen Stat. § 19a-638(b) are not required to provide notification of a termination.

Termination of a service that was authorized by a CON

If a health care facility proposes the termination of a service that initially required CON approval before commencing that service, the facility must apply for a modification of the CON.

For example: a psychiatric outpatient clinic, authorized by a CON, may want to stop offering substance abuse counselling. Rather than applying for a new CON to terminate the service, the psychiatric outpatient clinic may apply for a modification request instead. It must do so at least **60 days** prior to the termination and three or more individuals or groups may still request a public hearing. The application form for a modification can be found on the OHCA website under "OHCA Forms."

Termination of all services at a facility and the services were authorized by a CON

When a health care facility is proposing the termination of *all* of its services, and those services were authorized by one or more CON, the facility must notify OHCA not less than **60 days** before the date of a facility's closure.

For example: a CON is required to establish a substance abuse treatment facility. If the owner of a substance abuse facility wishes to cease operations, the facility must notify OHCA prior to doing so.

When notifying OHCA of a closure, but no CON is required, the notification to OHCA must include:

- The service or services that the facility will no longer provide;
- The reasons that the facility will no longer provide the service or services;
- Other facilities where the patients may obtain the service or services which the facility will no longer provide; and
- The date on which the service or services will be terminated.

Termination of a facility or service that was not authorized by a CON

A facility that did not require authorization to provide services must notify OHCA not less than **60 days** before the date it intends to either close the entire facility or stop providing specific services. In rare instances, a substance abuse facility may have commenced services at a time when state law did not require a CON. If such a facility now wishes to terminate that facility, it must provide notification to OHCA.

When notifying OHCA of a closure of a facility or termination of a service, but no CON is required, the notification to OHCA must include:

- The service or services that the facility will no longer provide or the name of location of the facility (depending on whether it is a complete closure or termination of services);
- The reasons that the facility will no longer provide the service(s);
- Other facilities where the patients may obtain the service(s) which the facility will no longer provide; and
- The date on which the service(s) will be terminated.⁸

MODIFICATION REQUESTS

To modify a service or project that was originally authorized under the CON process, a modification request is required.⁹

For example, CON approvals are only valid for two years from the date of issuance. An applicant may encounter unforeseen circumstances that will delay the CON project. The applicant may submit a modification request to extend the valid CON period beyond two years. OHCA will review the request. **A modification request is not, however, a substitute for a CON application if one is required under another section of the Connecticut General Statutes, such as 19a-638 or P.A. 15-146.** A Modification Request Form can be found on OHCA's website under "CON Forms." Modifications can include the actions described below.

Extension of CON Expiration Date

Approved CON's are valid for two years from the date of issuance.¹⁰ If an applicant is unable to, for good cause, complete the project in that time frame, it may apply for a modification extending the allotted completion period.

Change in CON Order Condition

When an applicant or a party to an order or agreed settlement would like a stipulation altered, it may request a modification.

Change in the Scope of the Authorized CON Project

An applicant may describe the anticipated scope of a project in an application and, subsequent to its being approved, decide, for example, that the proposed target population needs to be changed. The applicant could request a modification.

Some Terminations

⁸ Proposed termination of service by a health care facility. CONN. GEN. STAT. § 19a-639e (2015).

⁹ Contested cases. Reconsideration. Modification., CONN. GEN. STAT. § 4-181a (2015); Proposed termination of service by a health care facility, CONN. GEN. STAT. § 19a-639e (2015).

¹⁰ Certificate of need. Validity, extension, revocation and nontransferability, CONN. GEN. STAT. § 19a-639b(a) (2015).

A termination that does not require a CON application under Conn. Gen. Stat. section 19a-638 (i.e., outpatient surgical facility terminating surgical services, acute care hospital terminating an emergency department, hospitals terminating inpatient or outpatient services) may still be required to file a modification request. Health care facilities that are terminating one or more services that were originally authorized by a CON must file a modification at least **60 days** prior to the termination. Health care facilities that are terminating ALL services at a facility authorized by a CON must simply notify OHCA prior to the termination.¹¹ For more information on notifications and modification requests for terminations, please see pages 14 and 15.

NOTIFICATIONS

In certain instances a full CON is not required but the applicant must still notify OHCA that a change is being made to a previously CON-approved service. A Notification Form can be found on OHCA's website under "OHCA Forms."

Replacement of Existing Imaging Equipment

A CON is not required to replace existing imaging equipment that was originally acquired via the CON process, so long as OHCA is notified of the replacement date and the date on which the old equipment is disposed. Computed tomography scanners, magnetic resonance imaging scanners, positron emission tomography scanners or positron emission tomography-computed tomography scanners can each be replaced with a notification to OHCA, so long as the original scanner was acquired via a CON or determination.¹²

Termination of a facility/all services and no CON is required

In two termination-related instances, although a CON is not required, the health care facility must still submit notification to OHCA. Please note, if a CON is required under Conn. Gen. Stat. section 19a-638 to terminate a particular facility or service, a notification will not suffice.

1. When a health care facility intends to terminate *all* of its services that were authorized by one or more CONs¹³
2. When a health care facility is terminating a service or an entire facility, but the service or facility was *not* originally authorized by a CON.¹⁴

The facility must notify OHCA not less than **60 days** before the date it intends to cease services. The notification to OHCA must include the services that the facility will no longer provide, the reason the

¹¹ Proposed termination of service by a health care facility, CONN. GEN. STAT. § 19a-639e (2015).

¹² *Id.* § 19a-638(b)(18); An act concerning hospitals, insurers and health care consumers, 2015 Conn. Acts 146 § 39 (Reg. Sess.).

¹³ Proposed termination of service by a health care facility, CONN. GEN. STAT. § 19a-639e(b) (2015).

¹⁴ *Id.* § 19a-639e(c).

facility will no longer provide those services, other facilities where patients may obtain the terminated services and the date of the termination.

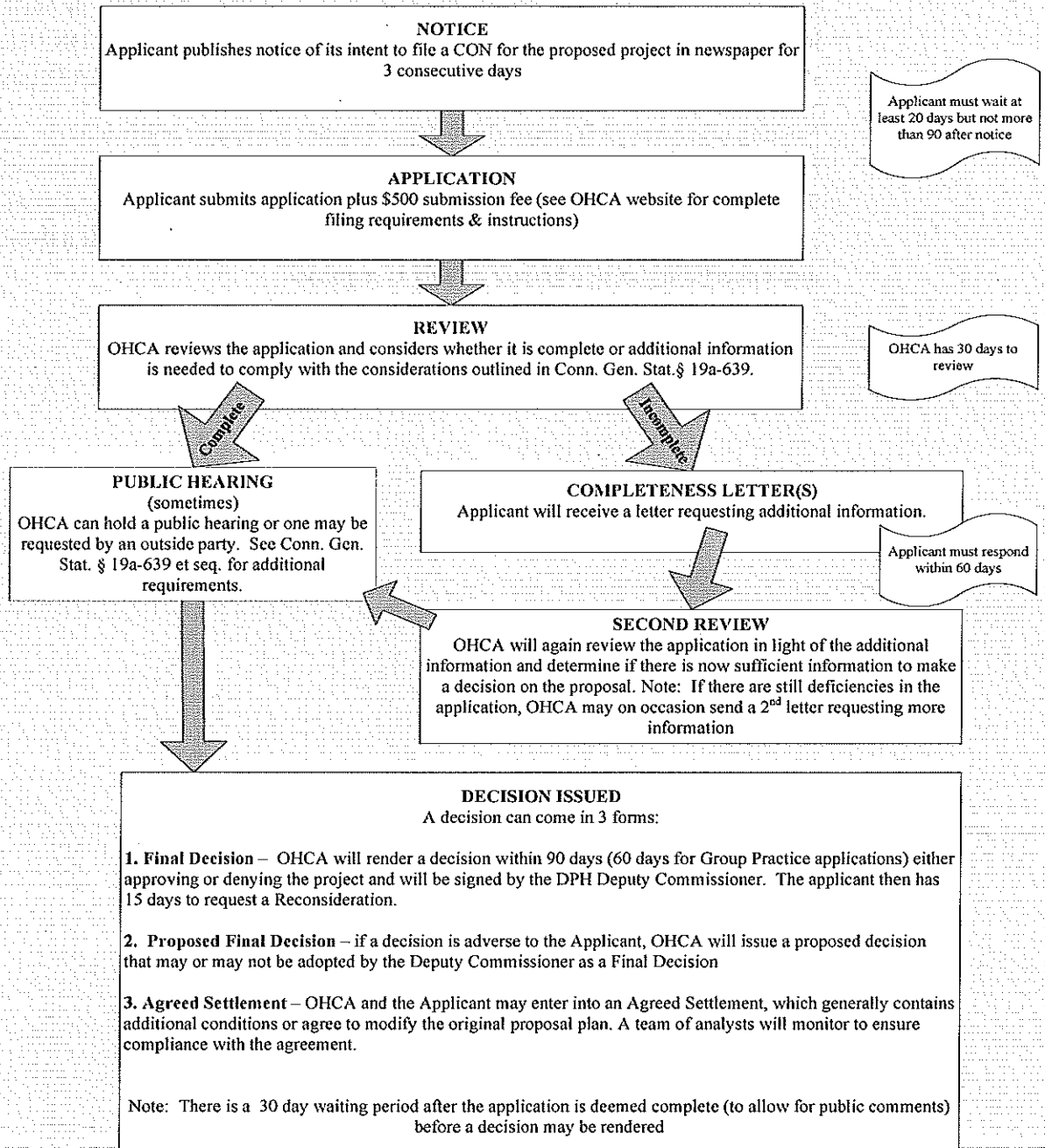
REQUEST A DETERMINATION

General questions can be directed to OHCA staff at (860) 418-7001 or ohca@ct.gov. However, in order to definitively determine if a CON is required for a project, a CON Determination Form should be submitted. It is available on the OHCA website under "OHCA Forms."

Nothing precludes an applicant from beginning the newspaper notification process prior to receiving a response to a determination request. However, not all determination requests result in a directive to file a CON. The filing of a determination request is not mandatory unless a health care facility is relocating. **It is advised, though, that a prospective-applicant request a determination if there is any uncertainty as to whether a CON is required.**

SECTION III. THE CERTIFICATE OF NEED PROCESS

Certificate of Need Process Overview



HOW TO APPLY FOR A CON

The entire CON process, from the time OHCA receives the application to the final decision of the application can take anywhere from 60 days to a year—depending on the complexity of the proposal, the completeness of the application, and whether a public hearing is held.¹⁵ *Each CON application is reviewed for public need, financial feasibility, current compliance and legal issues related to the organizational structure of proposed operators and/or contractual arrangements.*

When applications are incomplete, OHCA requests the missing information in the form of a “completeness letter” to the applicant. Completeness letters provide the applicant with another opportunity to provide the state with the necessary information—but can also delay the review process. Applications that are properly and thoroughly completed can be processed efficiently. The Deputy Commissioner will render a decision, either approving or denying the application, or enter into an agreed settlement with the applicant.

Public Notice

Applicants must publish notice for three consecutive days, in a newspaper having substantial circulation in the area where the project will be located, of its intent to file a CON. Notice must be published **at least 20—but no more than 90 days**—before filing. The notice must contain a brief description of the project and the street address of where the project is to be located.¹⁶

Application

Application materials can be found on OHCA’s website by selecting “Certificate of Need” from the left sidebar and then “OHCA forms” from the navigation grid at the top of the page. You will need to complete:

- a) **Main Form** – all applicants must fill out a “Main Form”. Complete the checklist to ensure you have included all required documents including proof the notice has been published in a newspaper. Most questions should be applicable to all applicants, however, if one or more is not, please explain why—even if it seems obvious.
- b) **Supplemental Form** – supplemental forms are specific to the type of proposal. There are 12 options:
 1. Establishment of a new health care facility (mental health and substance abuse treatment)
 2. Transfer of ownership of a health care facility
 3. Transfer of ownership of a group practice
 4. Establishment of a freestanding emergency department
 5. Termination of services (including inpatient or outpatient services offered by a hospital, mental health services, or ED by a short-term acute hospital)

¹⁵ If a decision is appealed to superior court or a request for reconsideration is submitted, the application is then beyond the purview of OHCA.

¹⁶ CONN. GEN. STAT 19a-639a(b) (2015).

6. Establishment of an outpatient surgical facility
7. Establishment of cardiac services
8. Acquisition of imaging scanners or nonhospital-based linear accelerators
9. Increase in licensed bed capacity of a health care facility
10. Acquisition of equipment utilizing technology new to the state
11. Increase of two or more operating rooms
12. Sale of a hospital

- c) **Financial Worksheet** – the Financial Worksheet is an Excel workbook containing two separate worksheets: one for not-for-profit entities and one for for-profit entities. Please fill out the sheet applicable to the project. When completing the sheet, pay attention to the columns titled “FY Projected Incremental.” These values should reflect the difference between the “FY Projected W/O CON” and “FY Projected W/ CON” columns.

Every application must be numbered sequentially and subsequent submissions by the applicant must continue that numeration. Applications must include:

- One (1) original hardcopy in a 3-ring binder
- A USB flash drive containing:
 - A scanned copy of the application in its entirety as a .pdf (Adobe)
 - A copy of the completed Main and Supplemental Forms in MS Word and the Financial Workbook in MS Excel
- A certified, cashier or business check made out to the “Treasurer State of Connecticut” in the amount of \$500.

OHCA's Review for Completeness

An OHCA analyst has up to **30 days** from receipt of the application to review the materials and determine if there is sufficient information for analysis. Analysts will consider whether proper public notice was given and assess whether all twelve statutory criteria (outlined below) are addressed in the application. If the application is found incomplete, OHCA will send a letter to the applicant requesting specific pieces of additional information. The applicant then has **60 days** to respond to the request. If the applicant does not respond in that time period, the application is considered automatically withdrawn.¹⁷

Once responses are received, an OHCA analyst will again review any responses submitted and assessed whether the information provided is sufficient. If the application incomplete, the analyst will, again in not more than **30 days** from the date of receipt, send the applicant a second, follow-up letter requesting additional information. If the information is sufficient, the analyst will, in not more than **30 days** from the date of receipt, send a letter to the applicant deeming it complete and post notification on its website.

Application Analysis

¹⁷ *Id.*

Once the application is deemed complete, one or more analysts will review it before submitting it to the Deputy Commissioner for a decision. Analysts will assess whether there is a clear public need for the project and whether it is financially feasible using the Conn. Gen Stat. section 19a-639¹⁸ criteria below:

1. Whether the project is consistent with policies and regulations adopted by the Department of Public Health
2. The relationship of the project to the state-wide health care facilities and services plan, which is available on DPH's website.
3. Whether there is a clear *public* need for the facility or services proposed. **It is the applicant's responsibility to demonstrate public need for the proposed project including supporting documents and data** Although benefits to the applicant may intersect with those of the public, please be sure to focus on the latter.
4. Whether the applicant has satisfactorily demonstrated how the proposal will impact either:
 - the strength of the health care system 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. The analysis takes into consideration, in part, any changes in access to services for Medicaid and indigent persons.
6. The applicant's past and proposed provision of services to the relevant patient populations and payer mix, including access to Medicaid recipients and indigent persons
7. Whether the applicant has satisfactorily identified the population to be served and that there is an unmet need for those services
8. Utilization of existing health care facilities and services in the service area
9. Whether the applicant has satisfactorily demonstrated that the proposal will not result in unnecessary duplication of services or facilities in the area
10. Whether an applicant, who has failed to provide or has reduced access to services by Medicaid recipients or indigent patients, has demonstrated good cause for doing so—which will not be demonstrated solely on the basis of differences in reimbursement rates by 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

Some criteria directly relate to different applications more than others.

For example, an application to terminate a service may focus less on item 9, which asks whether the proposal will result in the unnecessary duplication of services in the area. Even though it may seem obvious that terminating a service will not cause a duplication of services, applicants should be aware that analysts must address all criteria in their decisions. Providing information that responds to all the criteria is necessary.

¹⁸ As modified by Pub. Act. 15-146 section 28.

OHCA Decision

Unless a public hearing is scheduled (see page 25 for more information on public hearings), OHCA has up to **90 days** to render a decision, but must wait at least 30 to allow an opportunity for a public hearing to be requested.¹⁹ OHCA's review period is shorter for applications for the transfer of ownership of group practices under Conn. Gen. Stat. section 19a-638(3). For those applications, the review period is no more than **60 days**.

OHCA analysts will advise the Deputy Commissioner on applications and the Deputy Commissioner will either approve—with or without modifications-- or deny it.²⁰ If OHCA seeks to impose conditions on an approval, it may do so by entering into an agreed settlement consented to by both OHCA and the applicant. An agreed settlement may contain conditions that must be complied with for a specified period of time. OHCA's compliance section will monitor any such conditions.

Publication

OHCA publishes notices on its homepage upon receiving a new application, when an application is deemed complete and when a final decision has been issued. Pending and completed applications are posted there as well. The homepage also provides information on upcoming public hearings.

Valid Period

An approved CON is valid for two years following the date of issuance and only for the approved project. Upon request, the office may extend a certificate. However, if the office determines the certificate holder has not made a good-faith effort to complete the project as approved or substantially completed the project within two years, it may revoke the certificate.²¹ If an applicant is not able to complete the project in the allotted time, it is the applicant's responsibility to apply for a modification with OHCA. See page 14 for more on modifications.

¹⁹ Certificate of need application process. CONN. GEN. STAT. § 19a-639a(d) (2015).

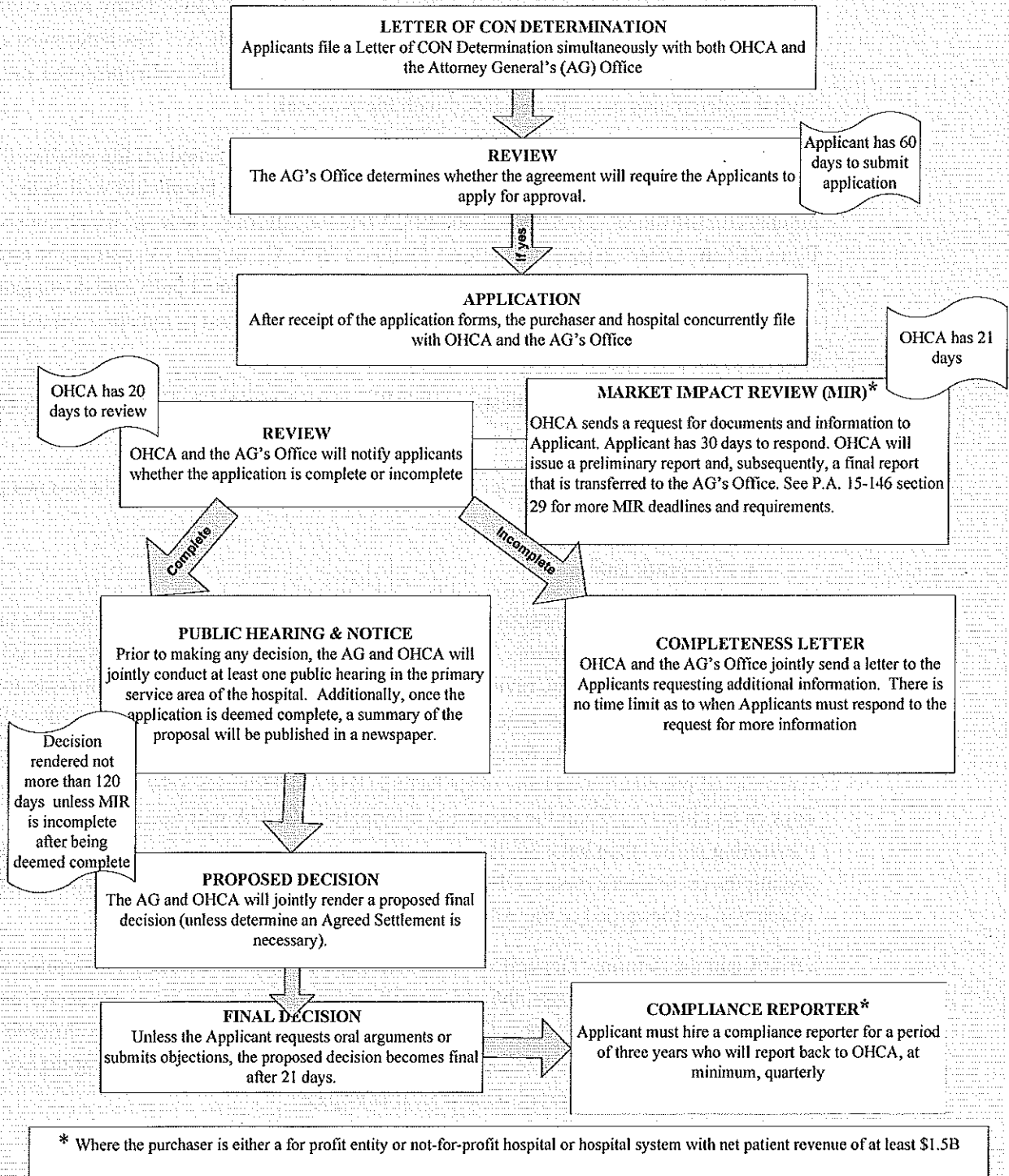
²⁰ Office of Health Care Access division overseen by a Deputy Commissioner of Public Health. CONN. GEN. STAT § 19a-612d (2015).

²¹ Certificate of need. Validity, extension, revocation and nontransferability. CONN. GEN. STAT § 19a-639b(a) (2015).

TRANSFER OF OWNERSHIP OF A HOSPITAL

Transfer of Ownership of a Hospital

Conn. Gen. Stat. § 19a-486 & P.A. 15-146



Pursuant to Conn. Gen. Stat. § 19a-486 and Public Act 15-146, a hospital must first receive approval from both the Attorney General and the DPH Commissioner before engaging in a transfer of ownership that impacts or changes its governance or controlling body. :

A hospital seeking to take either of the above actions must first concurrently file a CON Determination letter with the Attorney General's office and OHCA.²² The letter must contain the name and address of the hospital and purchaser, a brief description of the proposal and the estimated capital expenditures or costs associated with the proposal.

Once the determination is filed, the Attorney General will assess and decide whether the proposal requires review and notify the hospital of its decision. If so, the hospital as well as the prospective purchaser must file an application with OHCA and the Attorney General, which consists of a Main Form and an "Other" supplemental form found on OHCA's website. As part of the application, the applicants must have a fairness evaluation done by an independent party and documentation showing the hospital conducted its due diligence in regards to the decision to transfer ownership and its selection of a purchaser.

Concurrent to review of an application, OHCA will initiate a Market Impact Review (MIR) if the purchaser is:

- a hospital or hospital system that, in fiscal year 2013, had net patient revenue greater than \$1.5 billion; or
- a for-profit entity.

Not later than **21 days** after receipt of a certificate of need application, OHCA will send transacting parties a request for information.²³ All nonpublic information and documents obtained for the MIR will remain confidential. The review will examine factors relating to the businesses and relative market positions of the transacting parties, including service prices, the quality of services, access to services elsewhere similar to those provided by the parties, the availability of services to at-risk and underserved populations and any other factors OHCA determines to be in the public hearing. In 90 days or less from receiving the requested information, OHCA will issue a preliminary report. The transacting parties then have 30 days to, if they so choose, respond in writing. **Sixty days** after issuing the preliminary report, OHCA will issue a final report of the cost and market impact review, which will be forwarded to the Attorney General's office for review.

OHCA and the Attorney General will, not later than **20 days** after receipt, determine whether the application is complete. If not, the offices will jointly issue a letter to the applicants detailing what additional information is needed. Otherwise, before any decision is made, the Attorney General's office and OHCA will schedule a public hearing in the primary service area of the hospital and publish a summary of the proposal in a local newspaper.

²² An application to transfer ownership of a hospital is dictated by an additional statutory provision. Conn. Gen. Stat. §§ 19a-486 et seq. However, the §486 application process occurs in tandem with the actual CON process.

²³ Public Act 15-146 section 29.

Within **120 days** of deeming the application complete, OHCA and the Attorney General will either approve, with or without modifications, or deny the application. The Commissioner must deny the application unless the Commissioner finds:

1. The community will be assured of continued access to high quality and affordable health care after accounting for any proposed changes in staffing
2. A continued commitment to any existing policy of providing care to the uninsured and underinsured
3. Safeguard procedures are in place to avoid conflicts of interest in patient referrals when providers or insurers have the opportunity to invest in the hospital
4. Other certificate of need considerations are satisfied

The Attorney General's office will employ its own set of criteria, in accordance with Conn. Gen. Stat. section 19a-486c, when reviewing the application.

In two instances, the hospital will be required to hire a compliance reporter for a period of three years. This is required when the purchaser is:

- a hospital or hospital system that, in fiscal year 2013, had net patient revenue greater than \$1.5 billion; or
- a for-profit entity.

The compliance reporter will, at minimum, meet with representatives of the purchaser, new hospital, and members of the community quarterly and report back to OHCA. The compliance reporter will make note of efforts taken to comply with any conditions imposed on the transaction by OHCA. If conditions have been breached, OHCA may implement a performance improvement plan and extend the compliance monitoring period.²⁴

RECONSIDERATION OF A CON

If an application is denied, once that final decision has been rendered applicants may request a reconsideration. To request a reconsideration, applicants must file a petition within **15 days** of OHCA's mailing the decision. **The petition must be based on one of the following: an error of law or fact; newly discovered relevant evidence that was not, for good reason, presented previously; or other good cause.**²⁵

If, after 25 days of receiving the petition, OHCA determines the denial does not warrant additional review, the petition for reconsideration is considered rejected. If OHCA does decide to reconsider the application, it has 90 days after receipt of the petition to issue a new decision affirming, modifying or reversing the denial. OHCA may request additional information. If it does not issue a decision within those 90 days, the original denial will remain the final decision.²⁶

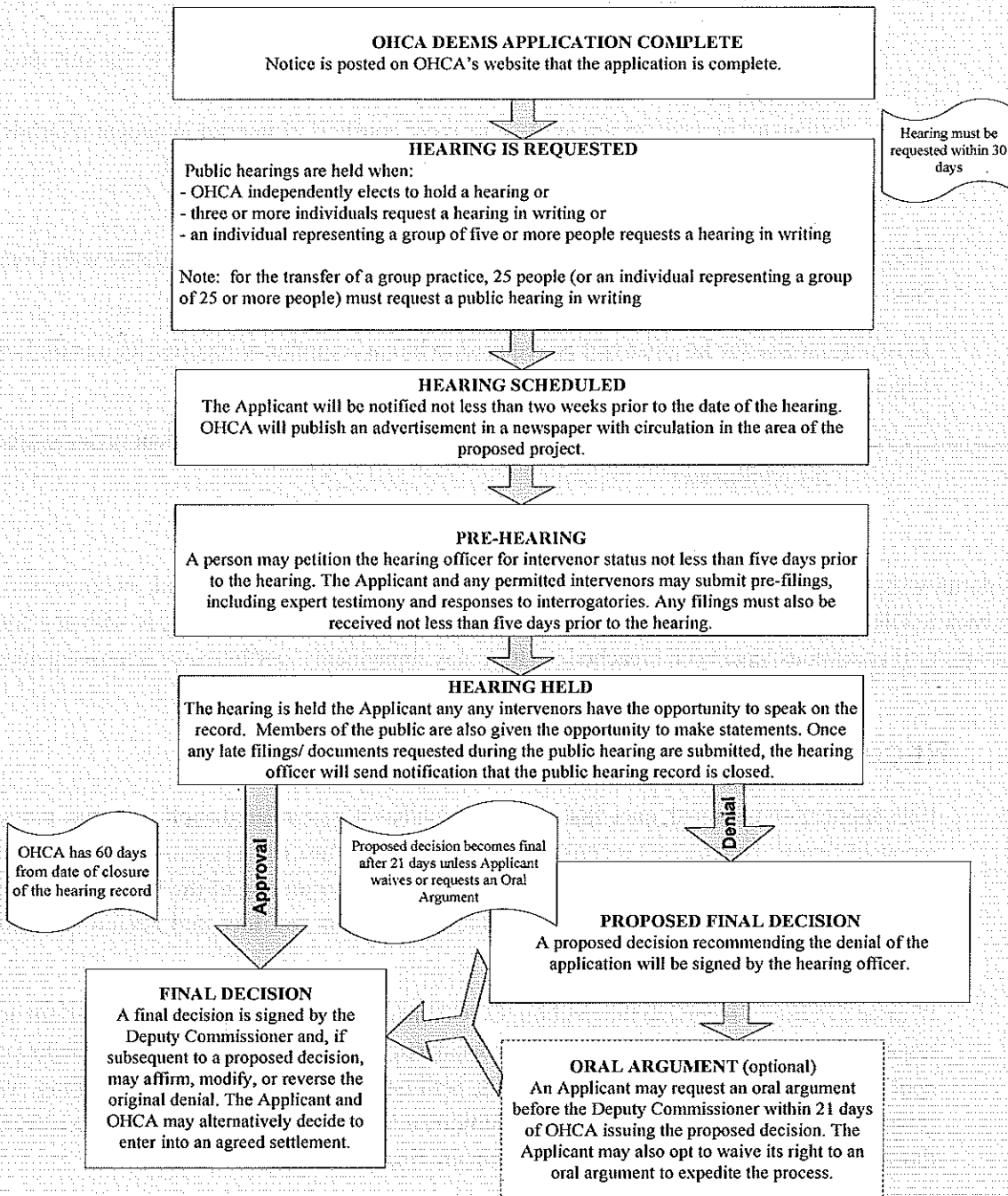
²⁴ Public Act 15-146 section 28.

²⁵ Contested cases. CONN. GEN. STAT §4-181a (2015).

²⁶ *Id.*

HOLDING A PUBLIC HEARING

Public Hearing Process



The Process

A public hearing may be held on an application that has been deemed complete:

- at the discretion of OHCA if outstanding issues or remain, or
- when three or more individuals request a hearing in writing, or
- when an individual representing a group of five or more people requests a hearing in writing

Note: for an acquisition of a large group practice only, a hearing will be held when 25 people or an individual representing a group of 25 people request a hearing in writing

A request for a hearing must be made not later than **30 days** after the office determines the application is complete.²⁷ Once OHCA has determined a public hearing will be held, it will notify the applicant *at least* two weeks in advance and will place an advertisement in a newspaper in the area of the proposed project announcing the time, place, and topic of the hearing.²⁸

Parties to the hearing may pre-file written testimony with the assigned hearing officer, an independent employee of the Department of Public Health. The pre-filing must be received at least **5 days** prior to the hearing and may include technical or expert testimony.²⁹ The witness(es) submitting the written testimony must, however, still be present at the hearing for possible cross-examination. The applicant may also be asked to submit responses to interrogatories from OHCA, which must be submitted with any pre-filings.

Many parties opt to be represented by an attorney for the public hearing process. Attorneys must give notice to OHCA that they will be representing a party. Only attorneys may represent parties as representation by a non-attorney constitutes the unlicensed practice of law under Conn. Gen. Stat. § 55-88.

At the hearing, the applicant and any intervenors are allowed to make statements to the hearing officer as well as present witnesses. The applicant generally has the opportunity to cross-examine intervenors and any of their witnesses. OHCA staff and/or the hearing officer may additionally pose questions to parties and witnesses, all of which is made part of the official record.

Once the hearing has been conducted and any late-filed documents are received, the hearing officer will notify parties when the record is closed. Barring an Agreed Settlement (an approval that also stipulates conditions) OHCA will render a proposed final decision either approving or denying the application not more than **60 days** later.³⁰ The applicant then has **21 days** from the date of OHCA's mailing to challenge the proposed decision, either submitting exceptions, briefs or a request for an

²⁷ Certificate of need application process, CONN. GEN. STAT § 19a-639a(e) (2015).

²⁸ *Id.* § 19a-639a(f).

²⁹ Miscellaneous provisions, CONN. AGENCIES REGS. § 19a-9-29 (e) (2013).

³⁰ *Supra* note 13 at § 19-639a(d).

oral argument.³¹ If the applicant does not request an oral argument or waives the right to an oral argument, the proposed decision is then considered a final decision.³²

Public Participation

Public hearings are open to all members of the public. Individuals who wish to comment may do so in person at the hearing or in writing prior to the official closing of the record.

Intervenors

Individuals who have an interest in the matters at issue can petition the hearing officer to be designated an intervenor. The hearing officer may grant intervenor status if s/he finds that the individual has, at least **5 days** prior to the hearing, sent a petition to the agency and all other parties that shows the individual's legal rights, duties or privileges will be specifically affected by OHCA's decision in the case.³³ The hearing officer may also set the scope of an intervenor's participation by limiting the ability to cross-examine witnesses, setting the issues for which an intervenor may contribute, and determining the intervenor's ability to inspect and submit evidence.

Intervenors have the opportunity to speak at the public hearing and present witnesses, whose testimony is included in the public record on which OHCA bases its decision.

Oral Arguments

If the proposed final decision is a denial, the applicant has 21 days from OHCA's mailing of the decision to request an oral argument.³⁴ Oral arguments may only be requested after a public hearing has been held. OHCA will send the applicant a letter with the date and location of the hearing including a deadline by which the applicant must pre-file testimony and any exceptions applicant may have to the proposed final decision.

Oral argument is typically held before the Deputy Commissioner and applicants generally have a pre-set limited amount of time to present arguments. Applicants may not raise new issues during oral arguments and must limit presentations to the factual and legal issues raised at the public hearing or are already in the record.

After the close of the evidence or the due date for the filing of any late briefs, a final decision will be rendered within **90 days**. The final decision may either affirm or reverse the denial. Alternatively, the applicant and OHCA may enter into an Agreed Settlement.

³¹ *Supra* note 15 at § 19a-9-29(f).

³² Agency proceedings, CONN. GEN. STAT. § 4-179(d) (2015).

³³ Rules of practice, CONN. AGENCIES REGS. § 19a-9-27 (2013).

³⁴ Miscellaneous provisions, CONN. AGENCIES REGS. § 19a-9-29 (f) (2013).

Appeals

Applicants may, after a final decision has been rendered, appeal to Superior Court. Applicants must file an appeal within 45 days of either the mailed final decision or the rejection of a petition for reconsideration.³⁵ Please refer to Conn. Gen. Stat. section 4-183 for more details on filing an appeal with the Superior Court.

***** Note: nothing in this or any other section of the CON Guide should be construed as legal advice and does not modify or supplant any state statute, regulation, or departmental policy. *****

³⁵ Appeal to Superior Court, CONN. GEN. STAT § 4-183(b) (2015).

POINTERS

- Completed CON applications that contain thorough responses facilitates faster analysis and review. Incomplete applications generally necessitate one, if not more, follow-up “completeness letters” which lengthens the process.
- Reviewing completed CON applications and decisions pertaining to similar proposals may help your application process to understand how to complete documents. They can be found on OHCA’s website by selecting “Certificate of Need” from the left sidebar and “Completed Applications” or “Final Decisions” from the navigation box at the top of the page.
- Make sure the information in each section is consistent with the information provided in all other sections.
- Double-check figures provided in tables to ensure they add-up correctly.
- Read each question carefully and make sure to answer the specific question asked. Some questions may seem repetitive but are trying to elicit different information for clarification.
- If you believe a question is not relevant to you, do not respond with “N/A” or “not applicable.” Provide a brief explanation of why the question does not apply to avoid analysts having to make assumptions on your behalf.
- Answer every sub-part of each question.
- Provide documentation to substantiate all material claims (e.g., if the proposal will be self-funded, include bank statements or tax filings evidencing sufficient funds to cover the stated capital costs).
- Focus on Connecticut residents for all utilization tables. Applicants may mention the benefits to residents of other states, however, OHCA’s analysis pertains primarily to a proposed project’s impact on Connecticut residents.
- When filling out the Financial Worksheet, the difference between the “With CON” and “Without CON” columns should be equal to the values in the “Projected Incremental” column. The incremental values are meant to reflect the costs (or savings) of solely the proposed project and no other part of the applicant’s services.
- When explaining the need for the proposed project, please focus on the public’s need. Although the benefits to the applicant may overlap with the public’s interests, it is important to focus on the latter.
- Repeat the question or prompt before each response.

- Contact OHCA with any questions you may have. The OHCA phone number and email address found on page 3 of this guide.

SECTION IV. WHAT IF I DO NOT APPLY?

Any person, hospital, facility or institution that is required to submit a CON and does not may face civil penalties according to Conn. Gen. Stat. section 19a-653. Parties who willfully fail to file a CON may face a penalty of up to \$1,000 per day of the violation.

If OHCA believes a violation has occurred it will notify the party by first-class mail or personal service. The party then has 15 business days to either request a hearing to contest the penalty.

SECTION V. FREQUENTLY ASKED QUESTIONS

1. What is a Certificate of Need (“CON”)?

Certificate of Need (“CON”) is legal decision that helps to contain costs and increase access for many of Connecticut major health care services. It is a program that is regulated by 19a-638 of the Connecticut General Statutes.

2. What criteria does OHCA use to review a CON Application?

The criteria used to review CON applications are listed under Conn. Gen. Stat. section 19a-639, which includes the clear public need, access to health care, cost effectiveness, and financial feasibility.

3. What is a Health Care Facility?

Health Care Facility is a term that OHCA uses to define the eight (8) types of facilities that it regulates. The term Health Care Facility is defined for OHCA’s purposes under Conn. Gen. Stat. section 19a-630. It includes hospitals licensed by DPH, specialty hospitals, freestanding emergency departments, outpatient surgical facilities, a hospital or other institution operated by the state, a central service facility, mental health facilities, substance abuse treatment facilities. Any other facility that requires a CON review under Conn. Gen. Stat. section 19a-638 is considered a “health care facility”.

4. What is OHCA?

OHCA stands for Office of Health Care Access. It is a division of the Department of Public Health.

5. What does OHCA do?

The major functions of the Office of Health Care Access (OHCA) are as follows: administration of the Certificate of Need (CON) program; preparation of the Statewide Health Care Facilities and Services Plan; health care data collection, analysis and reporting; and hospital systems financial review and reporting. The CON program promotes appropriate health facility and service development that addresses a public need. The CON program strives to ensure accessibility for needed services while limiting duplication or excess capacity of facilities and services.

OHCA has statutory authority to gather and analyze significant amounts of hospital financial, billing and discharge data. Information collected, verified, analyzed and reported includes hospital expenses and revenues, uncompensated care volumes, and other financial data as well as hospital utilization, demographic, clinical, charge, payer and provider statistics. The office produces an annual acute care hospital financial stability report and biennial utilization report reflective of these data analysis.

The office posts separate hospital utilization tables and financial dashboards on the OCHA website including a page dedicated to assisting consumers with hospital billing and other hospital concerns. OHCA continues to review requests by consumers to verify that their hospital charges are in agreement with the hospital charge masters.

6. How do I contact someone at OHCA?

The main number to contact OHCA is (860) 418-7001 or you can send an email to OHCA@ct.gov.

7. How do I know that I need to file a CON?

Three ways:

- You can review 19a-638 of the Connecticut General Statutes that lets you know, what does and what does not require a CON.
- You can submit a completed CON Determination Form with all the relevant facts about your project/proposal and OHCA will send you a formal written CON Determination stating whether your proposal/project requires you to file for a CON.
- You can contact OHCA directly by telephone (860) 418-7001 or email (ohca@ct.gov).

8. What Connecticut General Statutes (“C.G.S.”) guide the CON?

There are two primary state statutes that guide the CON program, they are 19a-638, which lists what does and what does not require a CON, and 19a-639a, which explains the CON process and review criteria.

9. What is a CON Determination and when should I file one?

If you are unclear whether your proposal/project requires a CON, you can submit a completed CON Determination Form and OHCA will reply back in writing whether or not your proposal/project requires you to file a CON.

10. How do I start the CON process?

Publishing a notice to the public in the local major newspaper for 3 days in a row, 20 days prior to submitting the completed CON application to OHCA begins the process. Please see <http://www.ct.gov/dph> for the overall CON process or contact OHCA at (860) 418-7001 for process related details and answers to your questions.

11. Where can I get CON forms to fill out?

CON forms are located on OHCA’s website under “OHCA Forms”

12. Is there a fee required when filing a CON Application with OHCA?

Yes, there is a \$500 fee required when filing a CON with OHCA.

13. Who can I talk to about the CON process at OHCA? How do I get in touch with them?

You can contact OHCA with any CON questions at (860) 418-7001.

14. Where can I find previously filed CON Applications, Decisions, and Determinations?

All CON Applications, Decisions and Determinations can be found on OHCA’s website by selecting “Certificate of Need” from the left sidebar and either “Completed Applications”, “Final Decisions”, or “Determinations” from the navigation box at the top of the page.

15. What is a CON Modification?

A CON Modification is a process by which a previously rendered CON Decision or a previously signed Agreed Settlement is altered. It is principally guided by Conn. Gen. Stat. section 4-181a. They are generally requested when there is a change in condition, such as an extension of time is needed or any aspect of the project is changed that is not substantial enough to warrant a new CON application.

16. Where do I find previous CON Modifications?

As with all other OHCA public documents, copies of CON Modifications can be found on OHCA's website. Selecting "Certificate of Need" from the left hand sidebar and then "Modifications" from the navigation box at the top of the page.

17. Who is the final decision maker for CON Determinations, Decisions and Modifications rendered by OHCA?

The Deputy Commissioner of Department of Public Health, is the final decision maker for all OHCA final actions and may designate the OHCA Director of Operations or another person to sign decisions and determinations on her behalf.

18. When does OHCA hold a public hearing?

Once a CON application has been deemed Complete (meaning OHCA has gathered the information and the CON application it deems necessary), there are two ways a public hearing can be held. OHCA can choose to take any CON application to a public hearing for any reason, or if three (3) or more individuals or a person or entity, representing five or more individual's request, a public hearing within 30 days of a CON application being deemed Complete. For a transfer of ownership of a group practice application, a public hearing will be held at the election of OHCA or when 25 or more individuals, or an individual representing a group of 25 or more people, request a hearing.

19. Can I attend a public hearing?

Yes. All public hearings are open to the public to attend. Members of the public may also share opinions and make statements during public hearings. If someone wishes to participate as a more formal party in a public hearing, s/he may request intervenor status in the particular hearing under the appropriate Connecticut General Statute.

20. Where do I find information regarding an OHCA public hearing?

When a public hearing is scheduled, OHCA publishes a legal notice informing the public in the major local newspaper where the proposal/project is to be located. In addition, OHCA files it's weekly Calendar with the Secretary of State and publishes information about the public hearing on the front page of OHCA website. It is also on the Department of Public Health's Calendar on the OHCA/DPH's website. We encourage you to follow us on social media at CT DPH including Twitter and Facebook for public hearing announcements and other timely OHCA updates.

21. How do I know what CONs are currently being reviewed by OHCA?

CONS are reviewed on an ongoing basis. OHCA produces and publishes a CON Status Report that is posted on OHCA's website under "Status Reports."

22. What's the status of a particular CON?

On a weekly basis, OHCA produces and publishes a CON Status Report that is published on OHCA's website under "Status Reports."

23. What is a Docket Number?

A number called the "Docket Number" is assigned to each CON related filing with OHCA. This is a way to track all projects internally and externally.

24. Do I need a CON to get a license for the facility I want to open?

OHCA does not give out licenses. Contact the Department of Public Health's Licensing section directly to inquire if your particular facility/service requires a license. You can reach them at (860) 509-7603.

25. I'm replacing and/or relocating my current MRI, CT, PET or PET-CT. Do I need to file anything with OHCA, if I have a previous CON authorization for that piece of equipment?

If the scanner you are looking to relocate or replace has previous CON authorization (approving your initial acquisition of the machine), you may download a CON Replacement/Relocation form from OHCA website under "OHCA Forms". Complete and submit it with the appropriate Docket Number of the previous CON authorization. Once OHCA verifies your previous CON authorization, it will post your notice on our website under CON Notifications.

26. Do I need to file a CON for removing/terminating my current MRI, CT, PET, PET-CT, or LinAC?

If you are a hospital and terminating any service, you are required to file a CON. Removing/terminating your current imaging or LinAc service would be considered a termination. If you are not a hospital and removing/terminating your imaging service, you do not need to file a CON.

27. When does OHCA post information related to CONs on its website? How often?

OHCA makes every effort to post CON related documents on the website as soon as possible. Most documents are posted within 24 hours of being received or sent out.

28. How do I get a copy of a CON application, CON Determination or any other CON related documents?

You may request a copy of any CON related document (unless it's deemed Confidential by OHCA) through the Freedom of Information ("FOI") process. Please see OHCA FOI process here: <http://www.ct.gov/dph>.

29. What is the relationship between the Statewide Health Care Facilities and Services Plan (the Plan) and the CON application process?

The Plan, considered an advisory document, is intended to be a blueprint for health care delivery in Connecticut, serving as a resource for policymakers and those involved in the CON process and

providing information, policies and projections of need to guide planning for specific health care facilities and services.

SECTION VI. GLOSSARY OF TERMS

- **Ambulatory surgical care** – surgical care not requiring overnight stay, but requiring a medical environment exceeding that normally found in a physician’s office.³⁶
- **Acute care hospital** --a short-term hospital that has facilities, medical staff and all necessary personnel to provide diagnosis, care and treatment of a wide range of acute conditions, including injuries.³⁷
- **Agreed settlement** – means a document negotiated between and signed by the Commissioner, her designee or a presiding officer with authority to make a final decision, an applicant and all parties to a proceeding, which is ordered as a final decision of the Office.³⁸
- **Cardiac services** – includes inpatient and outpatient cardiac catheterization, interventional cardiology and cardiovascular surgery. Interventional cardiology is defined as non-surgical procedures performed in the cardiac catheterization laboratory for the treatment of coronary artery and peripheral vascular disease. Included within this definition are both emergent and elective angioplasty services.³⁹ According to Conn. Gen. Stat. section 19a-639, a CON is required for the establishment of such services.
- **Completeness letter** – a letter faxed or e-mailed to an applicant from OHCA requesting specific information absent from an application. Not all applications require a completeness letter. An applicant has 60 days to respond and provide the requested information.
- **Computed Tomography (CT)** – the use of radiographic and computer techniques to produce cross-sectional images of the head or body.⁴⁰
- **Computed Tomography Scanner (CT Scanner)** – means x-ray CT scanning systems, including axial, spiral, helical or electron beam CT systems (except as set forth in 19a-638(b)(19)), capable of performing CT scans of the head, other body parts or full body patient procedures, or any equipment that is classified by the United States Food and Drug Administration as a computed tomography device.⁴¹
- **Conditions** – terms agreed upon by signatory parties—usually an applicant and Deputy Commissioner – to an agreed settlement.

³⁶ OHCA, *Statewide Health Care Facilities and Services Plan* 141 (Oct 2012).

³⁷ Definitions. CONN. AGENCIES REGS. § 17b-262-453 (2013).

³⁸ Definitions. CONN. AGENCIES REGS. § 19a-643-10 (2013).

³⁹ OHCA, *Statewide Health Care Facilities and Services Plan* 38-40 (Oct 2012).

⁴⁰ *Id.* at 142.

⁴¹ *Id.*

- **Determination** – a decision rendered by OHCA staff attorney stating whether a proposed project requires the submission of a CON application. Determination forms can be found on OHCA’s website.
- **Final decision** - means (A) the agency determination in a contested case, (B) a declaratory ruling issued by an agency pursuant to section 4-176, or (C) an agency decision made after reconsideration. The term does not include a preliminary or intermediate ruling or order of an agency, or a ruling of an agency granting or denying a petition for reconsideration.⁴²
- **Financial feasibility** – means the ability of the applicant to secure necessary financing at reasonable costs and to meet the capital costs and operating expenses associated with the proposal in the short, intermediate, and long term given reasonable net patient revenue or patient rate authorizations.⁴³
- **Free-standing (satellite) emergency department** – an emergency department that is located away from the main campus of a hospital and provides care for emergency medical conditions on an urgent basis without requiring a previously scheduled appointment.⁴⁴
- **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. "Health care facility" includes any parent company, subsidiary, affiliate or joint venture, or any combination thereof, of any such facility⁴⁵
- **Hearing officer** - means an individual appointed by an agency to conduct a hearing in an agency proceeding. Such individual may be a staff employee of the agency.⁴⁶
- **Intervenor**- a person, other than a party, granted status as an intervenor by an agency.⁴⁷ The presiding officer of a contested case may grant a person status as an intervenor if such person has submitted a written petition to the agency and mailed copies to all parties at least five days before the date of the hearing and the petition states facts demonstrating that the petitioner’s participation is in the interests of justice and will not impair the orderly conduct of the proceedings. If the presiding officer grants the petition, s/he may define the scope of the intervenor’s ability to participate in the hearing.⁴⁸

⁴² Definitions. CONN. GEN. STAT. § 4-166(5) (2015).

⁴³ Definitions. CONN. AGENCIES REGS. § 19a-643-10 (2013).

⁴⁴ OHCA, *Statewide Health Care Facilities and Services Plan* 146 (Oct 2012).

⁴⁵ *Id* § 19a-630(11).

⁴⁶ Definitions. CONN. GEN. STAT. § 4-166(6) (2015).

⁴⁷ Definitions. CONN. GEN. STAT. § 4-166(7) (2015).

⁴⁸ Contested cases. CONN. GEN. STAT. § 4-177a (2015).

- **Large 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 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.⁴⁹
- **Linear accelerator** – an apparatus for accelerating charged subatomic particles used in radiotherapy, physics research and the production of radionuclides.⁵⁰
- **Licensed bed capacity** – the total number of beds licensed to a facility; includes observation beds as well as staffed beds
- **Magnetic Resonance Imaging (MRI)** – means the use of magnetic fields and radio waves to produce cross sectional images similar to those displayed by computed tomography (CT).⁵¹
- **Non-hospital based** – means located at a site other than the main campus of the hospital.⁵²
- **Outpatient surgical facility** - means any entity, individual, firm, partnership, corporation, limited liability company or association, other than a hospital, engaged in providing surgical services or diagnostic procedures for human health conditions that include the use of moderate or deep sedation, moderate or deep analgesia or general anesthesia, as such levels of anesthesia are defined from time to time by the American Society of Anesthesiologists, or by such other professional or accrediting entity recognized by the Department of Public Health. An outpatient surgical facility shall not include a medical office owned and operated exclusively by a person or persons licensed pursuant to Conn. Gen. Stat section 20-13, provided such medical office: (1) Has no operating room or designated surgical area; (2) bills no facility fees to third party payers; (3) administers no deep sedation or general anesthesia; (4) performs only minor surgical procedures incidental to the work performed in said medical office of the physician or physicians that own and operate such medical office; and (5) uses only light or moderate sedation or analgesia in connection with such incidental minor surgical procedures.⁵³

⁴⁹ Definitions. CONN. GEN. STAT. § 19a-630(10) (2015). Please note this definition is relevant to Conn. Gen. Stat. § 19a-638(3), as amended by S.B. 811(2015), the transfer of ownership of a group practice only. Other provisions of the state statutes define "group practice" differently.

⁵⁰ MOSBY'S MEDICAL DICTIONARY 1099 (7th ed., 2006)

⁵¹ OHCA, *Statewide Health Care Facilities and Services Plan* 146 (Oct 2012).

⁵² Definitions. CONN. GEN. STAT. § 19a-630(12) (2015).

⁵³ Outpatient surgical facilities. Definitions. . CONN. GEN. STAT § 19a-493b (2015).

- **Positron Emission Tomography Scanner (PET Scanner)** – an FDA-approved full or partial ring scanner or coincidence system that has a crystal at least 5/8-inch thick, techniques to minimize or correct for scatter and/or randoms, and digital detectors and iterative reconstruction, or any equipment that is classified by the United States Food and Drug Administration as an emission computed tomography device.⁵⁴
- **Positron Emission Tomography – Computed Tomography Scanner (PET-CT Scanner)** – a medical imaging device which combines in a single gantry system both a positron emission tomography (PET) and computed tomography (CT), so that images acquired from both devices can be taken sequentially in the same session from the patient and combined into a single superposed image.⁵⁵
- **Payer mix** - the proportion of a facility's total patient population who pay by each type of insurance, such as Medicaid, Medicare and commercial insurance.
- **Proposed final decision** - means a final decision proposed by an agency or a presiding officer under Conn. Gen. Stat. section 4-179.⁵⁶
- **Primary service area** – means the smallest number of zip codes from which the [applicant] draws at least seventy-five percent of its patients.⁵⁷
- **Public notice** – prior to a public hearing, notice shall be placed in the form of publication in a newspaper with significant circulation in the area of the hearing.⁵⁸ Notice of a hearing shall include but shall not be limited to the following: (1) a statement of the time, place and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held and the particular sections of the statutes and regulations involved; (3) a short and plain statement of fact describing the purpose of the hearing and the principal facts to be asserted therein.⁵⁹
- **Special hospital** - a short-term hospital having facilities, medical staff and all necessary personnel to provide diagnosis, care and treatment of a limited special group of acute conditions.⁶⁰

Substance Abuse and Mental Health Services Administration (SAMHSA) – an agency of the United States Department of Health and Human Services with the function of disseminating accurate and up-to-date information about and providing leadership in the prevention and treatment of addictive

⁵⁴ OHCA, *Statewide Health Care Facilities and Services Plan* 148 (Oct 2012).

⁵⁵ OHCA, *Statewide Health Care Facilities and Services Plan* 146 (Oct 2012).

⁵⁶ Definitions. CONN. GEN. STAT. § 4-166(15) (2015).

⁵⁷ Definitions; Notice to the Attorney General of certain mergers. CONN. GEN. STAT., § 19a-486i(11)(2015).

⁵⁸ *Id.* § 19a-639a (f).

⁵⁹ Notice of Hearing. CONN. AGENCIES REGS. § 17a-210a-21 (2013).

⁶⁰ Institutions, classifications and definitions. CONN. AGENCIES REGS. § 19-13-D1 (2013).

and mental disorders.⁶¹ Applicants may use SAMHSA data to support assertions there is a public need for behavioral health services in an area.

- **Transfer of ownership** – a transfer that impacts or changes the governance or controlling body of a health care facility, 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.⁶²
- **Transfer** – means to sell, transfer, lease, exchange, option, convey, give or otherwise dispose of or transfer control over, including but not limited to, transfer by way of merger or joint venture not in the ordinary course of business.⁶³
- **Transfer of ownership of a hospital** – means a transfer that impacts or changes the governance or controlling body of a hospital, including, but not limited to, all affiliations, mergers or any sale or transfer of net assets of a hospital and for which a certificate of need application or a certificate of need determination letter is filed on or after December 1, 2015.⁶⁴

⁶¹ MOSBY'S MEDICAL DICTIONARY 1,785 (7th ed., 2006).

⁶² Definitions. CONN. GEN. STAT. § 19a-630(16) (2015).

⁶³ An act concerning hospitals, insurers and health care consumers. P.A. 15-146 (Jan. Sess. 2015).

⁶⁴ An act concerning hospitals, insurers and health care consumers. P.A. 15-146 (Jan. Sess. 2015).

SECTION VII. OTHER RESOURCES

Resource and website link	Online location
<u>Connecticut General Statutes Title 19a Chapter 368z</u>	http://www.cga.ct.gov/current/pub/chap_368z.htm
<u>Office of Health Care Access Rules and Regulations 19a-643-1 et seq.</u>	http://www.sots.ct.gov/sots/lib/sots/regulations/title_19a/643.pdf
<u>Public Act No. 15-146</u>	http://www.cga.ct.gov/2015/ACT/PA/2015PA-00146-R00SB-00811-PA.htm
Office of Health Care Access Policies and Procedures	
<u>Certificate of Need application forms</u>	http://www.ct.gov/dph/cwp/view.asp?a=3902&q=562014&dphNav=

