



CONNECTICUT
Office of Health Strategy

Certificate of Need Guidebook

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

TERMINATION OF SERVICES
ESTABLISHMENT OF NEW HEALTH CARE FAC
INCREASE IN LICENSED BED CAPACITY
DIVERSITY CLEAR PUBLIC NEED
NEW TECHNOLOGY
SERVICES CERTIFICATE OF NEED
IMAGING EQUIPMENT QUALITY
COMMUNITY SYSTEMS
OFFICE OF HEALTH STRATEGY
COST ACCESS DATA
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REGULATORY PROCESS
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POLICIES AND STANDARDS FINANCIAL REPORTING
TRANSFER OF OWNERSHIP FINANCIAL STRENGTH
HEALTH SYSTEMS PLANNING



The Connecticut Certificate of Need ("CON") Guidebook, a publication of the Office of Health Strategy Health Systems Planning Unit, 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.

CON is a regulatory process that prevents costly duplication of services, protects access to and continuity of health care services, and ensures Connecticut's residents have a voice regarding healthcare for their communities. CON also helps guide community-based planning for health services and facilities.

This guide contains important instructions and information as related to CON and will assist you in the preparation of your application or to understand the CON process. This guide should not be considered legal advice.

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

About the Office of Health Strategy

Mission Statement and Objectives

The mission of Connecticut's Office of Health Strategy (OHS) is to implement comprehensive, data driven strategies that promote equal access to high quality health care, control costs and ensure better health for the people of Connecticut. To fulfill its mission, OHS 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. OHS additionally collects and analyzes data, reports on trends and regulates certain health care-related projects.

The Best Ideas for Connecticut

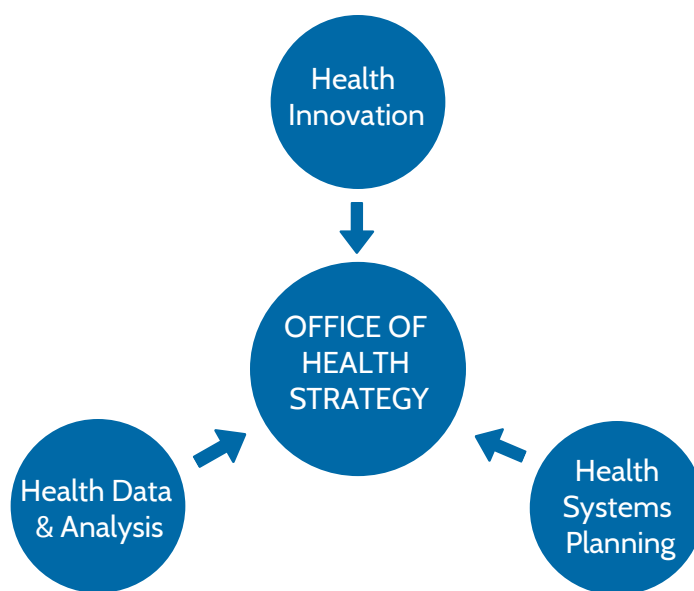
Connecticut needs clear vision to help the residents of our state secure the care they need in the complex and rapidly-changing world of health care delivery and payment. We need to make the best use of information and data from many sources so that we can find models that work and test them to make sure they support better health for our people and contain costs. And we need to break down barriers and transform the ways in which we work together so that government, health care providers, payers and consumers can drive the best ideas for Connecticut.

Existing State Resources Used in New Ways

The Office of Health Strategy was created by combining existing state projects and personnel: the Chief Health Policy Advisor from the Lt. Governor's office; the State Innovation Model (SIM) Project Management Office; the Health Information Technology Office; the Office of Health Care Access; and the All Payers Claims Database. By combining experts, data and goals, the new OHS will provide integrated, comprehensive leadership to improve health care systems and health in Connecticut.

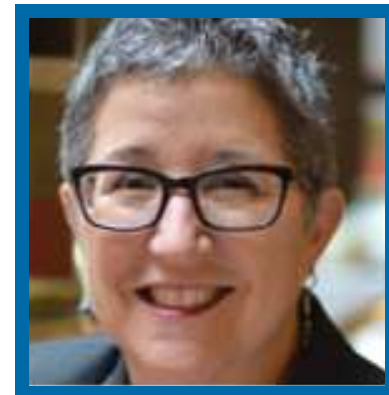
Working Together to Find the Best Solutions

Input and guidance from all sectors is a key ingredient to the success of the Office of Health Strategy. The Executive Director will continue to convene and work closely with the Healthcare Cabinet whose members represent state leaders, providers, consumers, payers and policy experts. The State Innovation Model Steering Committee and its working groups, and the Statewide Health Information Technology Advisory Council will continue to meet to drive the best solutions to improve health and healthcare in our state.



What The Office Of Health Strategy Does

The OHS develops health policy that improves health outcomes and limits health care cost growth across all sectors, whether private or public, including hospitals, physicians and clinical services and prescription drugs. Creation of this office brings together critical data sets and health information exchange efforts and allows for collaboration with many stakeholders, including state agency partners. Working with comprehensive data and experts from inside and outside government, OHS will develop and support state-led multi-payer healthcare payment and service delivery reforms.



Victoria Veltri
Executive Director

One of OHS' 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. CON applications are meant to elicit information regarding three primary areas: public need, access to care and cost-effectiveness. Through the Certificate of Need program, OHS improves access to high-quality health services, minimizes unnecessary duplication of services, facilitates healthcare market stability, and helps contain the cost of healthcare. 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. Additionally, a CON review will analyze whether the project is financially feasible for the Applicant and/or for the financial strength of the state as a whole.

Legal Proceedings

Connecticut General Statutes authorize OHS to conduct hearings and investigations in order to carry out its regulatory function. As part of this, OHS may elect to hold a public hearing on any application for a CON, subpoena witnesses and require the production of records. After the disposition of an application--either by a final decision or an agreed settlement--the compliance unit of OHS may also follow-up to ensure any conditions imposed are followed. Additionally, OHS may, after the opportunity for a hearing, pursue civil penalties against parties who are non-compliant with the conditions in an agreed settlement or willfully fails to file a CON.



Planning

As part of its planning function, OHS seeks to guide and coordinate health care resources in the state. Two of the planning reports produced by OHS are the Statewide Facilities and Services Plan and the Statewide Health Care Inventory Plan. The Statewide Facilities Plan is a blueprint for health care delivery in the state. It contains standards and guidelines as best practices for specific services. Together, these plans will provide a mechanism for identifying community need, assessing the health care system's capability of meeting those needs and allowing for the allocation of the necessary resources.



Data Collection, Analysis and Reporting

OHS collects a wide range of data from hospitals and other providers. It uses this data to report on trends in an effort to keep the public, policy makers and health care providers informed of the state of health care resources in Connecticut. Two of the data reports produced by HSP are the state-wide health care facility utilization study and an annual acute care hospital financial stability report, which are available on OHS' website. OHS also collects information on discharge data and inpatient data from all acute-care hospitals across the state.



When is a Certificate of Need Required?



1 Establishment of a new health care facility. Health care facility is defined in 19a-630 to include, in part, hospitals licensed by the Department of Public Health, specialty hospitals, freestanding emergency departments, facilities operated by the state that are eligible for reimbursement under the Social Security Act, a central service facility, mental health facilities and substance abuse treatment facilities



2 A transfer of ownership of a health care facility



3 A transfer of ownership of a large group practice to any entity other than a (A) physician, or (B) group of two or more physicians, 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



4 The establishment of a freestanding emergency department



5 The termination of inpatient or outpatient services offered by a hospital, including, but not limited to, the termination by a short-term acute care general hospital or children's hospital of inpatient and outpatient mental health and substance abuse services



6 The establishment of an outpatient surgical facility, as defined in section 19a-493b, or as established by a short-term acute care general hospital



7 The termination of surgical services by an outpatient surgical facility, as defined in section 19a-493b, or a facility that provides outpatient surgical services as part of the outpatient surgery department of a short-term acute care general hospital, provided termination of outpatient surgical services due to (A) insufficient patient volume, or (B) the termination of any subspecialty surgical service, shall not require certificate of need approval

When is a Certificate of Need Required?



The termination of an emergency department by a short-term acute care general hospital



The establishment of cardiac services, including inpatient and outpatient cardiac catheterization, interventional cardiology and cardiovascular surgery



The acquisition of computed tomography scanners, magnetic resonance imaging scanners, positron emission tomography scanners or positron emission tomography-computed tomography scanners, by any person, physician, provider, short-term acute care general hospital or children's hospital, except (A) as provided for in subdivision (22) of subsection (b) of this section, and (B) a certificate of need issued by the unit shall not be required where such scanner is a replacement for a scanner that was previously acquired through certificate of need approval or a certificate of need determination



The acquisition of nonhospital based linear accelerators



An increase in the licensed bed capacity of a health care facility



The acquisition of equipment utilizing technology that has not previously been utilized in the state



An increase of two or more operating rooms within any three-year period, commencing on and after October 1, 2010, by an outpatient surgical facility, as defined in section 19a-493b, or by a short-term acute care general hospital



The termination of inpatient or outpatient services offered by 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

Who Needs a CON?

The following tables provide further detail on the circumstances under which entity is required--or not required--to apply for a certificate of need. **Please note there are entities exempted from the CON program by Conn. Gen. Stat. §19a-638(b) that would otherwise be required to submit an application.**

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
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 OHS must be notified of the date on which equipment is replaced or disposed of

*Excluding entities exempt from the CON process under Conn. Gen. Stat. §19a-638(b)

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 Conn. Gen. Stat. section 19a-630)	YES
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)	YES
Not-for-profit hospitals	Transfer a material amount of its assets or change control of operations to a for-profit entity.	YES

*Excluding entities exempt from the CON process under Conn. Gen. Stat. §19a-638(b)

This guidebook is for informational purposes only, it is not legal advice. The Office of Health Strategy will update the guidebook periodically. If you have any questions, contact OHS at 860-418-7001.

Who Needs a CON?

INITIATING SERVICES OR INCREASING CAPACITY

Applies to...	Acquiring...	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. OHS will then send a follow-up letter /application form tailored to the specific facility.	YES
All health care entities *	Establish cardiac services, including catheterization, interventional cardiology and cardiovascular surgery	YES
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 entities exempt from the CON process under Conn. Gen. Stat. §19a-638(b)

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
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 below on page 14 for more information)

*Excluding entities exempt from the CON process under Conn. Gen. Stat. §19a-638(b)

Consequences for Failure to 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. §19a-653, parties who willfully fail to file a CON or fail to file a CON in the required amount of time may face a penalty of up to \$1,000 per day of the violation.

If OHS 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 or request an extension to file the application.

CON Exempt Entities...

According to Conn. Gen. Stat. §19a-638(b), a CON is NOT required for the following entities...



Health care facilities owned and operated by the federal government, such as Veteran's Health Administration (VA) Hospital;



The establishment of offices by a licensed private practitioner group, unless the establishment will result of a group of eight or more physicians that will be owned by a non-physician or group;



A health care facility operated by religious group that exclusively relies on spiritual means through prayer for healing;



Residential care homes, nursing homes and rest homes, as defined in subsection (c) of §19a-490;



Outpatient rehabilitation facilities;



An assisted living services agency, as defined in §19a-490;



Outpatient chronic dialysis services;



Home health agencies, as defined in §19a-490;



Transplant services;



Hospice Services, as described in §19a-122b;



Free clinics, as defined in §19a-630;



School-based health centers and expanded school health sites, as such terms are defined in §19a-6r, community health centers, as defined in §19a-490a, not-for-profit outpatient clinics licensed in accordance with the provisions of chapter 368v and federally qualified health centers;



A program licensed or funded by the Department of Children and Families, provided such program is not a psychiatric residential treatment facility;

According to Conn. Gen. Stat. §19a-638(b), a CON is NOT required for the following entities...



Any nonprofit facility, institution or provider that has a contract with, or is certified or licensed to provide a service for, a state agency or department for a service that would otherwise require a certificate of need. The provisions of this subdivision shall not apply to a short-term acute care general hospital or children's hospital, or 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;



A health care facility operated by a nonprofit educational institution exclusively for students, faculty and staff of such institution and their dependents;



An outpatient clinic or program operated exclusively by or contracted to be operated exclusively by a municipality, municipal agency, municipal board of education or a health district, as described in §19a-241;



A residential facility for persons with intellectual disability licensed pursuant to §17a-227 and certified to participate in the Title XIX Medicaid program as an intermediate care facility for individuals with intellectual disabilities;



Replacement of existing imaging equipment if such equipment was acquired through certificate of need approval or a certificate of need determination, provided a health care facility, provider, physician or person notifies the unit of the date on which the equipment is replaced and the disposition of the replaced equipment;



Acquisition of cone-beam dental imaging equipment that is to be used exclusively by a dentist licensed pursuant to chapter 379;



The partial or total elimination of services provided by an outpatient surgical facility, as defined in §19a-493b, except as provided in subdivision (6) of subsection (a) of this section and §19a-639e;



The termination of services for which the Department of Public Health has requested the facility to relinquish its license;



Acquisition of any equipment by any person that is to be used exclusively for scientific research that is not conducted on humans.

What is Required to Terminate a Service or Facility?

In addition to the terminations requiring a full CON application, certain health care facilities must also notify OHS 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. 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 OHS website under “CON 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 OHS not less than 60 days before the date it intends to cease services.

The notification to OHS 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 its services must notify OHS not less than 60 days before the date it intends to either close the entire facility or stop providing specific services.

The notification to OHS 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.

What is Required to Terminate a Service or Facility?

Is a CON required under §19a-638 to terminate? Is the proposal to:

- Terminate inpatient or outpatient services offered by a hospital
- Terminate surgical services by outpatient surgical facility*
- Terminate emergency department by short-term acute care general hospital
- Terminate inpatient or outpatient services operated by the state that are eligible for Medicaid



CON Required

*If termination is due to insufficient patient volume or it is a subspecialty being terminated, a CON is not required



Is the entity to be terminated a “health care facility” as defined by §19a-630?

- Hospitals licensed by DPH
- Specialty hospitals
- Freestanding emergency departments
- Outpatient surgical facilities
- Hospitals or other facilities operated by the state eligible for Medicaid
- Substance use treatment facilities
- Mental health facilities



Is it a single non-hospital based service being terminated and was it originally authorized by a CON? (Conn. Gen. Stat. § 19a-639e(a))



Modification Request Required



No CON, modification or notification with OHS Required



Are all services of a facility being terminated and were they originally authorized by a CON? (Conn. Gen. Stat. § 19a-639e(b))



Notification to OHS Required



Are all services of a facility being terminated and were they originally not CON-authorized? (Conn. Gen. Stat. § 19a-639e(c))



Notification to OHS Required

CON Modification Requests

A **modification** is required to modify a service or project that was originally authorized under the CON process. A modification request is not a substitute for a CON application, though, if one is required under another section of the Connecticut General Statutes, such as 19a-638. A Modification Request form can be found on OHS's website under "CON Forms." Modifications can include the actions described below. Under Conn. Gen. Stat. §4-181a(b), once a final decision on an application is rendered, any party may request a modification.

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1



Approved CON's are valid for two years from the date of issuance.[1] 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.

EXTENSION OF CON
EXPIRATION DATE

[1]Certificate of need. Validity, extension, revocation and nontransferability, Conn. Gen. Stat. §19a-639b(a) (2019).

#

2



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

CHANGE IN CON
ORDER CONDITION

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3



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 should request a modification.

CHANGE IN SCOPE
OF AUTHORIZED
CON PROJECT

#

4



SOME
TERMINATIONS

A termination of a service or project that did not initially require CON approval under Conn. Gen. Stat. §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 require the submission of 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. However, health care facilities that are terminating all services at a facility authorized by a CON must simply notify OHS prior to the termination.[1]

[1]Proposed termination of service by a health care facility, Conn. Gen. Stat. § 19a-639e (2019).

CON Notifications

In certain instances a full CON application is not required but the Applicant must still notify OHS that a change is being made to a previously CON-approved service. A Notification Form can be found here.

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 OHS is notified of the replacement date and the date on which the old equipment is disposed. The replacement imaging equipment must be of the same type that it is replacing but the specific model or strength may vary.

There are two instances when a health care facility must submit notification to OHS to terminate a service.

1) Termination of All Services



When a health care facility intends to terminate all of its services that were authorized by one or more CONs .

2) Termination of a Facility



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.

The facility must notify OHS not less than 60 days before the date it intends to cease services. The notification to OHS must include the services that the facility will no longer provide, the reason the facility will no longer provide those services, other facilities where patients may obtain the terminated services and the date of the termination.

CON Process Overview

Step 1: Notice



Applicant publishes notice of its intent to file a CON for the proposed project for three consecutive days.

Step 2: Application



Applicant submits application plus \$500 submission fee. (See OHS website for complete filing requirements & instructions). Applicant must wait at least 20 days but no more than 90 days to file after notice.

Step 3: Review



OHS reviews the application and considers whether it is complete or additional information is needed to comply with the considerations outlined in Conn. Gen. Stat. §19a-639a. OHS has 30 days to review.

Step 4: Completeness Letter



Applicant may receive a letter(s) requesting additional information. Applicant must respond to letter within 60 days. Note: This step will only occur if the application is missing necessary information.

Step 5: Second Review



OHS will again review the application with the additional information and determine if there is now sufficient information to make a decision on the proposal. Note: If there are still deficiencies in the application, OHS may on occasion, send a 2nd letter requesting more information.

Step 6: Public Hearing--YES



OHS may hold a public hearing or one may be requested by an outside party. See Conn. Gen. Stat. §19a-639 et seq. for additional requirements.

Step 6: Public Hearing--NO



There is a 30-day waiting period after the application is deemed complete (to allow for public comments and hearing requests) before a decision may be rendered. If there is no public hearing held, OHS will move the application review directly to Step 7.

Step 7: Decision Issued or Agreed Settlement



OHS will render a decision* within 90 days (60 days for Group Practice Applications) either approving or denying the project and will be signed by the OHS Executive Director. Alternatively, OHS and the Applicant may enter into an Agreed Settlement, which generally contains additional conditions or agrees to modify the original proposed plan. A team of analysts will monitor to ensure compliance with the agreement.

*The Applicant has 15 days to request a reconsideration.

HOW TO APPLY FOR A CON

The entire CON process, from the time OHS 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. 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, OHS 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 necessary information—but can also delay the review process. Applications that are properly and thoroughly completed can be processed more efficiently. Ultimately, the Executive Director will either render a decision (e.g., 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.

Application

Application materials can be found on OHS’ website by selecting “Certificate of Need” from the center list in blue and “OHS forms” from the side bar to the left. You will need to complete the main form, supplemental form and financial worksheet.

All Applicants must fill out a main form. Complete the checklist to ensure you have included all required documents including proof 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.

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 emergency department by a short-term acute hospital
6. Establishment of an outpatient surgical facility
7. Establishment of cardiac services

HOW TO APPLY FOR A CON

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

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 ensuring that the sheets are correctly labeled. 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 and subsequent submissions must be paginated by the Applicant. Applications must include a copy of the Main and Supplemental forms submitted via the OHS Web Portal in both .pdf (Adobe) and .docx (Word) formats; a completed Financial Workbook in MS Excel; and the electronic payment of \$500 via the OHS Web Portal at www.portal.ct.gov/ohs

Publication

The OHS searchable CON Portal contains information about 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 OHS homepage also provides information on upcoming public hearings.

Review for Completeness

An OHS analyst has up to **30 days** from receipt to review the application materials and determine if there is sufficient information to analyze it. 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, OHS 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.

If responses are received, an OHS analyst will again review any responses submitted and whether the information provided is sufficient to analyze the application. If not, the analyst will generally send the Applicant a second, follow-up letter requesting more information. In some instances, a public hearing may be held so the analyst can directly speak to the Applicant to clarify the information and to elicit public input. If the information is sufficient, the analyst will send a letter to the Applicant deeming it complete through the CON portal.

HOW TO APPLY FOR A CON

Application Analysis

Once the application is deemed complete, one or more analysts will review it before submitting it to the Executive Director for a decision on the application. Broadly, analysts will assess whether there is a clear public need for the project and whether it is financially feasible. More specifically, Conn. Gen Stat. §19a-639 requires analysts take the following criteria into consideration:

1. Whether the project is consistent with policies and regulations adopted by the Office of Health Strategy
2. The relationship of the project to the state-wide health care facilities and services plan, which is available on OHS' 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. 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.

HOW TO APPLY FOR A CON

Some criteria more directly relate to different applications than others. For example, an application to terminate a service will focus less on criteria nine, 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 speaks to all the criteria is necessary.

OHS Decision

Unless a public hearing is scheduled, **OHS has up to 90 days to render a decision on most matters, but must wait at least 30 to allow an opportunity for a public hearing to be requested.** OHS' review period is shorter for applications for the transfer of ownership of group practices under Conn. Gen. Stat. §19a-638(3). OHS has 60 days to render the decision.

OHS analysts will advise the executive director on applications and the executive director will either approve, with or without modifications, or deny the application. If more information is needed, the executive director and Applicant may enter into an agreed settlement, which both parties must agree to and sign. An agreed settlement may contain conditions that must be complied with for a specified period of time. OHS' compliance section will monitor compliance with conditions.

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 grant an extension. 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. 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 OHS.

CON CHECKLIST



1

A completed CON Main Form, including an affidavit for each applicant, signed and notarized by the appropriate individuals. CON forms can be found at OHS Forms.



2

A completed Supplemental Form specific to the proposal type.



3

A filing fee using Master Card or Visa submitted electronically via OHS's website (Certificate of Need Web Portal) in the amount of \$500.00. If you are not using Master Card or Visa, contact us at (860) 418-7001 for further instructions.



4

Evidence demonstrating that public notice has been published for 3 consecutive days in a newspaper that covers the location of the proposal. Use the following link to help determine the appropriate publication: Connecticut newspapers. The application must be submitted no sooner than 20 days, but no later than 90 days from the last day of the newspaper notice. The following information must be included in the public notice: A statement that the applicant is applying for a certificate of need pursuant to § 19a-638 of the Connecticut General Statutes; A description of the scope and nature of the project; The street address where the project is to be located; and the total capital expenditure for the project. (Please fax (860-418-7054) or email (HSP@ct.gov) a courtesy copy of the newspaper order confirmation to OHS at the time of publication.)



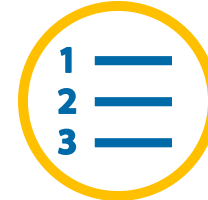
5

A completed Financial Worksheet specific to the application type.



6

All confidential or personally identifiable information (e.g., Social Security number) has been redacted.



7

All application components (e.g., Main Form, Supplemental Form, Financial Worksheet and Exhibits) are compiled and paginated.



8

Submission of all materials via OHS's website (OHS Web Portal) including:

1. A scanned copy of each submission in its entirety*, including all attachments in Adobe (.pdf) format.
2. An electronic copy of the applicant's responses in MS Word (the application) and MS Excel (the Financial Worksheet).

Public Hearing Process

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

- At the discretion of OHS 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: only for the acquisition of a large group practice, 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. Once OHS 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.

Parties to the hearing may pre-file written testimony with the assigned hearing officer. The pre-filing must be received at least **5 days** prior to the hearing and may include technical or expert testimony. **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 OHS, which must be submitted with any pre-filings.

Attorneys must give notice to OHS 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. Many parties opt to be represented by an attorney for the public hearing process.

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 also has the opportunity to cross-examine intervenors and any of their witnesses. OHS 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) OHS will render a decision either approving or denying the application not more than **60 days** later. If a proposed final decision denying the application is issued, the Applicant has **21 days** from the date of OHS' decision to challenge that decision, either submitting exceptions, briefs or a request for an oral argument. If the Applicant does not request an oral argument or waives the right to an oral argument, the proposed decision will become final.

Public Hearing Process

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 OHS' decision in the case. The hearing officer may also set the scope of an intervenor's participation—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 the OHS bases its decision.

Oral Arguments

If the proposed final decision is a denial, the Applicant has 21 days from OHS' decision to request an oral argument. Oral arguments may only be requested after a public hearing has been held. OHS will send the Applicant a letter with the date and location of the hearing as well as a deadline by which the Applicant must file exceptions and present briefs.

Hearings are held before the Executive Director and Applicants generally have a pre-set limited amount of time to present evidence and arguments. Additionally, 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 the denial or reverse the denial. Alternatively, the Applicant and OHS may enter into an Agreed Settlement.

Appeals

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

Public Hearing Process

OHS DEEMS APPLICATION COMPLETE

Notice is posted on OHS's portal that the application is complete.



Hearing must be requested within 30 days

HEARING IS REQUESTED

Public hearings are held when:

- OHS independently elects to hold a hearing or
- Three or more individuals request a hearing in writing or
- An individual representing a group of five or more people requests a hearing in writing.

Note: for the transfer of a group practice, 25 people (or an individual representing a group of 25 or more people) must request a public hearing in writing.



HEARING SCHEDULED

The Applicant will be notified not less than two weeks prior to the date of the hearing. OHS will publish an advertisement in a newspaper with circulation in the area of the proposed project.



PRE-HEARING

A party may petition the hearing officer for intervenor status not less than five days prior to the hearing. The Applicant and any permitted intervenors may submit pre-filings, including expert testimony and responses to interrogatories. Any filings must also be received not less than five days prior to the hearing.



HEARING HELD

When the hearing is held, the Applicant and any intervenors have the opportunity to speak on the record. Members of the public are also given the opportunity to comment.



DECISION

Once any late filings/documents requested during the public hearing are submitted, the hearing officer will send notification to the parties that the public hearing record is closed. From that time, OHS has not more than 60 days to render a decision either approving or denying the application. (Note: OHS and the Applicant may also alternatively enter into an Agreed Settlement outlining conditions upon which an approval is contingent).

Approved



FINAL DECISION

The final decision may be issued with or without modifications.



Denied:
Proposed Final Decision Issued

Oral Argument must be requested within 21 days of the Proposed Final Decision being issued.

ORAL ARGUMENT

After oral arguments are held before the Executive Director, within 90 days of the close of the record, a decision will be issued.

Overview for Oral Argument

Once the Proposed Final Decision is served upon the applicant one of three options can occur.

Option 1

No waiver or request for oral argument received from the applicant.

The final decision is served upon the applicant within 90 days following the close of evidence of the due date for the filing of briefs.

Option 2

Applicant files exceptions and requests oral argument pursuant to Conn. Gen. Stat. §4-179 within 21 days of the issuance of the proposed final decision.

Final decision is served upon the applicant within 90 days following the close of evidence or the due date for the filing of briefs (4-180).

Option 3

Applicant waives oral argument pursuant to 4-179(d).

Final decision is served upon the applicant within 90 days following the close of evidence or the due date for the filing of briefs.

RECONSIDERATION OF A CON

Reconsideration of a CON

If an application review results in a proposed final decision of denial the Applicants may request a reconsideration. To request a reconsideration, Applicants must file a petition within 15 days of OHS' 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.

If, after 25 days of receiving the petition, OHS determines the denial does not warrant additional review, the petition for reconsideration is considered rejected. If OHS 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. OHS may request additional information. If it does not issue a decision within those 90 days, the original denial will remain the final decision.

IF THE APPLICATION REVIEW RESULTS IN A PROPOSED FINAL DECISION OF DENIAL



FILING OF PETITION

Within 15 days of the proposed final decision, the Applicant must file a petition with OHS. The Petition must be based on one of the following:

- 1) an error of fact or law
- 2) newly discovered relevant evidence that was not, for good reason, presented previously
- 3) other good cause



REVIEW

OHS will review the filing of petition and determine whether to reconsider the application. If, after 25 days of receiving the petition, OHS determines the denial does not warrant additional review, the petition for reconsideration is considered rejected.

LETTER OF DETERMINATION

Applicants file a Letter of CON Determination simultaneously with both OHS and the Attorney General's (AG) Office



REVIEW

The AG's Office determines whether the agreement will require the Applicants to apply for approval



IF YES...

APPLICATION

After receipt of the application forms, the purchaser and hospital concurrently file with OHS and the AG's office.

Applicant has 60 days to submit application.

OHS has 21 days

COST & MARKET IMPACT REVIEW (CMIR)

OHS sends a request for documents and information to Applicant. Applicant has 30 days to respond. OHS will issue a preliminary report, and subsequently, a final report that is transferred to the AG's Office. See §19a-639(f) for more CMIR deadlines and requirements.

OHS has 20 days to review.

REVIEW

OHS and the AG's Office will notify applicants whether the application is complete or incomplete.

COMPLETE

PUBLIC HEARING & NOTICE

Prior to making any decision, the AG and OHS will jointly conduct at least one public hearing in the primary service area of the hospital. Additionally, once the application is deemed complete, a summary of the proposal will be published in a newspaper.



DECISION

The AG and OHS will jointly render a decision.



If decision is to deny, it is a proposed final decision.

FINAL DECISION

Unless the Applicant requests oral arguments or submits objections, the proposed decision becomes final after 21 days.



INCOMPLETE

COMPLETENESS LETTER

OHS and the AG's Office jointly send a letter to the Applicants requesting additional information. There is no time limit as to when Applicants must respond to the request for more information.

COMPLIANCE REPORTER*

Applicant must hire a compliance reporter for a period of three years who will report back to OHS, at minimum, quarterly.

*Where the purchaser is either a for profit entity or not-for-profit hospital or hospital system with net patient revenue of at least \$1.5 Billion.

Transfer of Ownership of a Hospital

Pursuant to Conn. Gen. Stat. § 19a-486, a nonprofit hospital must first receive approval from both the Attorney General and the OHS Executive Director before either:

- Transferring a material amount of its assets or operations to a for-profit entity or
- Changing control of operations to a for-profit entity

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 OHS. The letter must contain the name and address of the nonprofit 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. If so, the hospital as well as the prospective purchaser must submit an application with OHS and the Attorney General, which consists of a Main Form and an "Other" supplemental form found on OHS' 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. OHS 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 OHS will schedule a public hearing in the primary service area of the hospital and publish a summary of the proposal in a local newspaper.

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

- The community will be assured of continued access to high quality and affordable health care after accounting for any proposed changes in staffing
- A continued commitment to any existing policy of providing care to the uninsured and underinsured
- 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
- 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. §19a-486c, when reviewing the application.

COMPLIANCE & MONITORING

Compliance Post-CON Approval or Post-Agreed Settlement

The Office of Health Strategy issues Certificate of Need (CON) to individuals or organizations proposing to construct or modify a health facility, acquire major new medical equipment, offer a new or different healthcare service or terminate services. These CON authorizations contain a final decision or agreed upon stipulations within an agreed settlement that relate to the implementation of the authorization.

Compliance is the last piece of the Certificate of Need process, pursuant to Conn. Gen. Stat. §19a-639, during which the conditions set forth in the Final Decision Order or Agreed Settlement, are monitored and enforced by OHS staff, specifically designated to OHS Compliance. All the conditions in a CON Decision or Agreed Settlement are health care related and may incorporate conditions related to work from other units of OHS, such as Health Information Technology (HIT).

For the CON recipient, meeting these expectations include document filing and data reporting at varied timeframes, commencing the date of approval. It is the role of OHS Compliance Staff to review all documents filed and data received for completeness, clarity, and determine whether the intent of the condition or stipulation within the authorization order has been met.

CON Application Tips



Complete CON applications that contain thorough responses to the prompts are easier to analyze and allow for faster review. Additionally, incomplete applications generally necessitate one—if not more-- follow-up “completeness letters” which can lengthen the process. Ensuring all necessary information is initially provided can quicken the process.



The review of completed CON applications and decisions pertaining to similar proposals may be helpful. They can be found on the CON web portal.



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 often trying to elicit different information.



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, OHS’ 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 OHS with any questions you may have.



HELPFUL LINKS



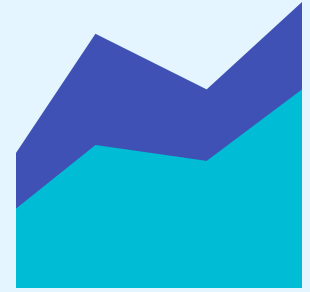
CON FORMS

Including: Newspaper Listing, Determination Form, Main Form, Supplemental Forms, Financial Worksheets, Notification Form & Modification Form.



CON PORTAL

Where you can file a CON, view CON statuses, and search for information. Also includes a user guide.



CON ANNUAL TRENDS

Annual CON application summary reports for Calendar Years 2012-2018.



CON PUBLIC HEARINGS

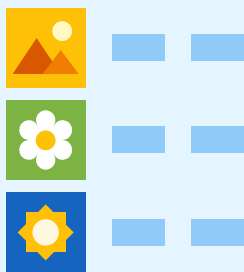
Includes: Agendas, Video Recordings & Hearing Transcripts



CON COMPLIANCE



OHS DATA AND REPORTS

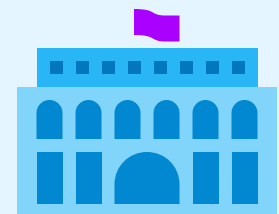


LISTS OF PRE-APPROVED CON HEARING LOCATIONS

Lists arranged by Hospital and by Location/Town



HISTORICAL CON DETERMINATIONS, APPLICATIONS, MODIFICATIONS & DECISIONS
Filed prior to launch of CON Portal (pre-2018)



CON STATUTES

Relevant regulations, criteria, policies and procedures related to CON.

FREQUENTLY ASKED QUESTIONS

What does OHS do?

The major functions of the Health Systems Planning Unit of the Office of Health Strategy (OHS) are the 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. OHS 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. OHS posts these reports on the website. Separate hospital utilization tables and financial dashboards and a page dedicated to assisting consumers with hospital billing and other hospital concerns. OHS continues to review requests by consumers to verify that their hospital charges are in agreement with the hospital charge masters.

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

Three ways:

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

What Connecticut General Statutes guide the CON?

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

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

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

How do I start the CON process?

By 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 OHS. Note: The application must be submitted no sooner than 20 days, but no later than 90 days from the last day of the newspaper notice. Please see <http://www.portal.ct.gov> for the overall CON process or contact OHS at (860) 418-7001 for process related details and answers to your questions.

Where can I get CON forms to fill out?

CON forms are located on OHS' website under "Certificate of Need Program", "CON Forms".

FREQUENTLY ASKED QUESTIONS

Is there a fee required when filing a CON Application with OHS?

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

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

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

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

All CON Applications, Decisions and Determinations can be found on OHS' CON Web Portal at <https://dphconwebportal.ct.gov/Report>

How do I know what CONs are currently being reviewed by OHS?

All CON Applications, Decisions and Determinations can be found on OHS' CON Web Portal at <https://dphconwebportal.ct.gov/Report>

What's the status of a particular CON?

All CON Applications, Decisions and Determinations can be found on OHS' CON Web Portal at <https://dphconwebportal.ct.gov/Report>

What is a Docket Number?

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

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. §4-181a. They are generally requested when there is a change in condition, such as an extension of time is needed or an aspect of the project is changed that is not substantial enough to warrant a new CON application.

Where do I find previous CON Modifications?

As with all other OHS public documents, CON Modifications can be found on OHS' CON Web Portal at All CON Applications, Decisions and Determinations can be found on OHS' CON Web Portal at <https://dphconwebportal.ct.gov/Report>

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

The Executive Director of the Office of Health Strategy, is the final decision maker for all OHS' final actions and may designate OHS' Director of Operations or another person to sign decisions and determinations on her behalf.

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

OHS does not give out licenses. Contact the Department of Public Health's Facility Licensing Investigations Section

FREQUENTLY ASKED QUESTIONS

When does OHS hold a public hearing?

Once a CON application has been deemed complete (meaning OHS has gathered the information in the CON application it deems necessary), there are two ways a public hearing can be held. OHS 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 OHS or when 25 or more individuals, or an individual representing a group of 25 or more people, request a hearing.

Can I attend a public hearing?

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 formally participate in a public hearing, s/he may request intervenor status in the particular hearing under the appropriate Connecticut General Statute.

Where do I find information regarding an OHS public hearing?

When a public hearing is scheduled, OHS publishes a legal notice informing the public in the major local newspaper where the proposal/project is to be located. In addition to that, OHS publishes information about the public hearing on the OHS website. We encourage you to follow us on social media at OHS including Twitter and Facebook for public hearing announcements and other OHS updates.

I'm replacing and/or relocating my current MRI, CT, PET or PET-CT. Do I need to file anything with OHS, 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 OHS website under "Certificate of Need Program (CON)", "CON Forms". Complete and submit it with the appropriate Docket Number of the previous CON authorization. Once OHS verifies your previous CON authorization, it can be found on OHS' CON Web Portal at <https://dphconwebportal.ct.gov/Report>

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.

FREQUENTLY ASKED QUESTIONS

When does OHS post information related to CONs on its website? How often?

All CON Applications, Decisions and Determinations can be found in real time on OHS' CON Web Portal at <https://dphconwebportal.ct.gov/Report>

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 OHS) through the Freedom of Information ("FOI") process. Please see OHS FOI process here: <https://portal.ct.gov/OHS/Services/Health-Systems-Planning/Hospital-Financial-CON-FOI-Portals> Additionally CON Applications, Decisions and Determinations can be found on OHS' CON Web Portal at <https://dphconwebportal.ct.gov/Report>

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.

Glossary

Ambulatory surgical care – surgical care not requiring overnight stay, but requiring a medical environment exceeding that normally found in a physician’s office.[1]

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.

Cardiac services – includes inpatient and outpatient cardiac catheterization, interventional cardiology and cardiovascular surgery.[2] According to Conn. Gen. Stat. § 19a-639, a CON is required for the establishment of such services.

Completeness letter – a letter uploaded to the OHS CON Portal 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. [3]

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. [4]

Conditions – terms agreed upon by signatory parties—usually an Applicant and Executive Director – to an agreed settlement.

Determination – a decision rendered by the OHS Deputy Director stating whether a proposed project requires the submission of a CON application. Determination forms can be found on OHS’ website.

Final decision - means (A) the agency determination in a contested case, (B) a declaratory ruling issued by an agency pursuant to §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.[5]

[1]Statewide Health Care Facilities and Services Plan 141 (Oct 2012).

[2]Statewide Health Care Facilities and Services Plan 38-40 (Oct 2012).

[3]Id. at 142

[4]Id.

[5]Definitions. CONN. GEN. STAT. §4-166(5)(2019).

Glossary

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. [6]

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. [7]

Hearing officer – means an individual designated by an agency to conduct a hearing in an agency proceeding. Such individual may be a staff employee of the agency.[8]

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.[9]

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 facility.[10]

Licensed bed capacity – the total number of beds licensed to a facility; includes observation beds as well as staffed beds

[6]Definitions. CONN. AGENCIES REGS. §19a-643-10 (2013).

[7]Statewide Health Care Facilities and Services Plan 146 (Oct 2012).

[8]Definitions. CONN. GEN. STAT. § 4-166(6) (2019).

[9]Definitions. CONN. GEN. STAT. § 19a-630(9) (2019). Please note this definition is relevant to Conn. Gen. Stat. § 19a-638(3).

[10]Definitions. CONN. GEN. STAT. § 19a-630(10) (2019).

Glossary

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). [11]

Non-hospital based – means located at a site other than the main campus of the hospital. [12]

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. [13]

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. [14]

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. [15]

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. § 4-179.

[11] Statewide Health Care Facilities and Services Plan 146 (Oct 2012).

[12] Definitions. CONN. GEN. STAT. §19a-630(11)(2019).

[13] Outpatient surgical facilities. Definitions. CONN. GEN. STAT § 19a-493b (2019).

[14] Statewide Health Care Facilities and Services Plan 148 (Oct 2012).

[15] Statewide Health Care Facilities and Services Plan 146 (Oct 2012).

Glossary

Primary service area – means the smallest number of zip codes from which the group practice draws at least seventy-five percent of its patients. [16]

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. 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. [17]

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 and mental disorders. 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. [18]

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. [19]

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.[20]

[16]CONN. GEN. STAT. §19a486i(a)911)(2019).

[17]Notice of Public Hearing. Conn. Agencies. Regs. § 19a-639a-6

[18]Definitions. Conn. Gen. Stat. § 19a-630(15)

[19]Application involving transfer of ownership of a hospital. Conn. Gen. Stat. § 19a-639(d)(1)(6)(2019)

[20]Application involving transfer of ownership of a hospital. Conn. Gen. Stat. § 19a-639(d)(1)(6)(2019)