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(See § 19a-160)

Administrative Regulations and Rules of Practice
Description of Organization

Sec. 19a-643-1. Description

The Office of Health Care Access (OHCA) derives its authority primarily from Chapter 368z of the Connecticut General Statutes. The Office constitutes a successor agency to The Commission on Hospitals and Health Care. The powers of the Office are vested in and exercised by a commissioner, appointed as provided in section 19a-612 of the Connecticut General Statutes.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-2. Functions

The Office of Health Care Access is generally empowered to exercise specified grants of authority over the creation, maintenance, and operation of such facilities and entities for the furnishing of health care as are provided for in Chapter 368z of the Connecticut General Statutes. The Office administers statutes concerning, but not limited to, health care facility and institution rates, budgets, net revenue limits, capital expenditures, the introduction of additional functions or services, the termination of a health service, the substantial decrease in bed capacity, the acquisition by a person or entity of major medical or imaging equipment or a linear accelerator with a value over the statutory threshold amounts, the reporting of data, the disclosure of information concerning affiliates, and hospital discount policies and agreements.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-3. Official address and hours

The principal office of the Office of Health Care Access is located at and all communications should be addressed to the Office of Health Care Access, 410 Capitol Avenue, MS#13HCA, P. O. Box 340308, Hartford, CT 06134-0308. The OHCA office is open from 8:30 a.m. to 4:30 p.m. each weekday except Saturdays, Sundays and legal holidays.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-4. Public information

The public may inspect the regulations, decisions and all public records of the Office of Health Care Access at its office in Hartford. There is no prescribed form for requests of information. Written requests which identify the specific information sought, shall be submitted to the Office at the official address in section 19a-643-3 of the Regulations of Connecticut State Agencies. A copy fee in accordance with section 1-15 of the Connecticut General Statutes, plus postage or shipping charges may apply.

(Effective August 23, 1984; transferred and amended, February 26, 1999)

Secs. 19a-643-5—19a-643-7. Reserved

RULES OF PRACTICE

ARTICLE 1: GENERAL PROVISIONS

Part 1: Scope and Construction of Rules

Sec. 19a-643-8. Procedure governed

Sections 19a-643-1 to 19a-643-115, inclusive, of the Regulations of Connecticut State Agencies, govern practice and procedure before the Office of Health Care

Access of the state of Connecticut under the applicable laws of the state of Connecticut and except where by statute otherwise provided.

(Effective August 23, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-9. Attorney defined

As used in all regulations of the Office of Health Care Access, ''attorney'' means an attorney at law, duly admitted to practice before the superior court of the state of Connecticut. Any other person who appears before the Office in any contested case, on behalf of any person or entity other than or in addition to himself, shall be deemed to have appeared as the agent or representative of a person, firm, corporation or association and, as such a representative, the person shall file with the Office a written notification of appearance and the written authorization of the person, firm, corporation or association being represented. An attorney, representative, applicant or petitioner of any type shall be fully bound to proceed in accordance with all regulations of the Office of Health Care Access in the contested case.

(Effective August 23, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-10. Definitions I

The definitions provided by section 4-166 of the Connecticut General Statutes, shall govern the interpretation and application of all regulations of the Office of Health Care Access. In addition thereto and except as otherwise required by the context:

(1) ''Office'', ''OHCA'' or ''agency'' means the Office of Health Care Access of the state of Connecticut, as established by section 19a-612 of the Connecticut General Statutes;

(2) ''Commissioner'' means a person appointed to serve as the Commissioner of Health Care Access, in accordance with section 19a-612 of the Connecticut General Statutes, when acting as such;

(3) ''Presiding officer'' means the commissioner, staff member of OHCA or the hearing officer designated by the commissioner to preside at any hearing of the office;

(4) ''Hearing'' means that portion of the Office's procedures in the disposition of matters delegated to its jurisdiction by law wherein an opportunity for presentation of evidence and argument occurs, which is preceded by due notice and which includes both an opportunity to present to the Office such written and oral testimony and argument as the presiding officer deems appropriate and an opportunity by parties to examine and cross-examine any witness giving testimony therein and an opportunity for others to participate as intervenors or informal participants to the extent determined by the presiding officer consistent with the provisions of the Uniform Administrative Procedure Act. Any such hearing shall be a public hearing;

(5) ''Contested case'' means a proceeding in the Office's disposition of matters delegated to its jurisdiction by law in which the legal rights, duties or privileges of a party are required by statute to be determined by the Office after an opportunity for a hearing or in which a hearing is in fact held but does not include declaratory ruling proceedings, investigative proceedings, or regulation-making hearings. The definition stated in section 4-166(2) of the Connecticut General Statutes, shall further define this term;

(6) ''Party'' means each person whose legal rights, duties or privileges are required by statute to be determined by the Office and who is named or admitted as a party or whose legal rights, duties or privileges will be specifically affected by the Office's decision in a contested case and who is named or admitted as a party or any person who is required by law to be a party in an Office proceeding;

(7) ''Intervenor'' means a person, other than a party, who has been granted permission to participate in a contested case, pursuant to section 19a-643-38 of the Regulations of Connecticut State Agencies, or in a declaratory ruling proceeding, pursuant to section 19a-643-24 of the Regulations of Connecticut State Agencies;

(8) ''Informal participant'' means a person, other than a party or an intervenor, who pursuant to section 19a-643-39 of the Regulations of Connecticut State Agencies, is given an opportunity by the presiding officer in a contested case to present oral or written statements;

(9) ''Person'' means any individual, partnership, corporation, limited liability company, association, governmental subdivision, agency or public or private organization of any character, which appears before the Office for any purpose, but does not include the Office of Health Care Access;

(10) ''Petitioner'' and ''Applicant'' mean the person or entity that has filed a petition or application with OHCA;

(11) ''Final decision'' means the Office's decision in a contested case, a declaratory ruling issued by the Office or a decision made after reconsideration. It does not include a preliminary or intermediate ruling or order or a ruling granting or denying a petition for reconsideration;

(12) ''Proposed final decision'' means a final decision proposed by OHCA, a person designated by the commissioner or a presiding officer under section 4-179 of the Connecticut General Statutes;

(13) ''Capital expenditure'' as used in section 19a-639 of the Connecticut General Statutes or ''capital cost'' as used for purposes of review under section 19a-638 of the Connecticut General Statutes, means the total value of all expenditures or proposed expenditures for the acquisition, installation and initial operation of items which at the time of acquisition have an estimated useful life of at least three years, even if the acquisition is for a period of less than three years, and a purchase price of at least $500.

(A) In determining the value of a capital cost or expenditure, the office shall use the greater of:

(i) The fair market value of the equipment as if it were to be used for full-time operation, whether or not the equipment is to be used, shared or rented on a part-time basis; or

(ii) The total value or estimated value determined by the Office of any capitalized lease computed for a three-year period, even if the lease is for a period of less than three years.

(B) Each determination under subparagraph (A) of this subdivision shall include the costs of any service or financing agreements plus any other cost component deemed appropriate by the Office, including but not limited to the value of the following:

(i) Land, buildings, fixed equipment, major movable equipment and any attendant improvements thereto;

(ii) The total cost of all studies, surveys, designs, plans, working drawings, specifications, and other activities essential to acquisition, termination, improvement, expansion or replacement of the plant, service or equipment or any combination thereof;

(iii) Leased assets. Purchase price for leased assets shall be the fair market value at the time of lease as determined by the Office using information supplied by the applicant and any other information the Office deems relevant;

(iv) Maintenance expenditures capitalized in accordance with generally accepted accounting principles or provided for as part of any lease, or lease-purchase agreement, purchase contract or similar or related agreement; and

(v) Donated assets. Donations of property and equipment which under generally accepted accounting principles are or would normally be capitalized at a fair market value at the date of contribution if purchased rather than donated.

(14) ''Timely'' or ''in a timely manner'' means in conformance with any date and time in a statute, regulation, or schedule established by the Office, its commissioner, his designee or a presiding officer;

(15) ''Agreed settlement'' means a document negotiated between and signed by the commissioner, his 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;

(16) ''Central service facility'', means a health care facility or institution, person or entity engaged primarily in providing services for the prevention, diagnosis or treatment of human health conditions, serving one or more health care facilities, practitioners or institutions;

(17) ''Day'', unless specified otherwise in statute or regulation, means a normal business day of the Office of Health Care Access; and

(18) ''Health maintenance organization'' or ''HMO'' means a health care center as defined under section 38a-175 of the Connecticut General Statutes, which is licensed or regulated by the State of Connecticut Insurance department in accordance with chapter 698a of the Connecticut General Statutes.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-11. Definitions II

The definitions provided by section 19a-630 of the Connecticut General Statutes, shall govern the interpretation and application of the regulations of the Office of Health Care Access. In addition thereto and except as otherwise required by the context:

(1) ''Health care facility or institution'' means any facility or institution which is engaged in providing services for the prevention, diagnosis or treatment of human health conditions. This definition of a health care facility or institution shall include but is not limited to home health agencies and clinical laboratory or central service facilities serving one or more health care facilities, practitioners or institutions; hospitals, residential care homes; nursing homes; nonprofit health centers; diagnostic and treatment facilities; rehabilitation facilities, and mental health facilities. Health care facility or institution includes any parent company, subsidiary, affiliate, joint venture or any combination thereof, of a health care facility or institution;

(2) ''Rate'' or ''charge'' includes but is not limited to the amount charged by any health care facility or institution in any combination or any form of billing. Such rate or charge by a health care facility or institution may take the form of a per diem patient room rate; aggregate special services charge per patient; emergency room charge where the patient is admitted as an inpatient after having received emergency treatment; or an outpatient clinic charge other than any included in the service of a rehabilitation center;

(3) ''Rate application'' means any and every report, operating budget, proposal, submission and request for the fixing of a rate or charge, as defined in the regulations of the Office of Health Care Access, and includes requested operating and capital budgets and requests, proposals and submissions concerning initial and all other rates, fees, tariffs, rentals or other charges that alter or may alter any classification,

contract, practice or service rule so as to result in the increase thereof. This subdivision refers specifically to filings under sections 19a-635, 19a-636, 19a-640, and 19a-673 to 19a-683, inclusive, of the Connecticut General Statutes;

(4) ''Fiscal year'' means a twelve (12) months period;

(5) ''Current fiscal year '' means the twelve month period preceding the budget year;

(6) ''Budgeted'' or ''budget'' year means a twelve month period subsequent to the current fiscal year;

(7) ''Revenue'' means in each rate application the combination of the applicant's operating revenues and all receipts obtained by grant, bequests, endowment or from any other source, that may be applied to all or any of the applicant's operating expenses, as herein defined;

(8) ''Expense'' means in each rate application the combination of the applicant's normal operating expenses;

(9) ''Relationship to the state health plan'' means the extent to which the proposal, request or submission under consideration by the Office is consistent with the state health plan adopted by the state Department of Public Health. If more than twenty-four months has elapsed since the plan's last revision or update to any relevant section or sections, it shall not be considered to be a current document. Specifically, consistency with the plan refers to the degree to which the proposal is compatible with the goals, objectives, recommended actions, standards and criteria contained in the plan;

(10) ''Relationship to the long range plan'' means the extent to which the proposal is consistent with the applicant's long range plan. The ''long range plan'' means any document or documents which sets forth the goals, objectives, and recommended actions necessary over a period of time to achieve the applicant's mission. Consistency with the plan refers to the degree to which the proposal is compatible with the goals, objectives, and recommended actions contained within the applicant's long range plan;

(11) ''Financial feasibility of the proposal, request or submission'' 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;

(12) ''Impact of the proposal on the applicant's financial condition'' means the impact of the proposal on the continuing ability of the applicant to operate effectively and efficiently and to meet its financial obligations in a timely manner, consistent with the principles of sound financial management;

(13) ''Impact of a proposal, request or submission on the interests of consumers of health care services and the payers for such services'' means the extent to which the matter under consideration by the Office may reasonably be expected to impact on the quality of services, the scope and accessibility of services and the cost of services at the applicant as stated in subsections (14), (15), (16) and (22) of this section, and the extent to which there may be any increase or decrease in costs for consumers or payers;

(14) ''The proposal's contribution to the quality of health care delivery in the region'' means the impact of the proposal, request or submission on the degree to which services proposed are appropriate to the needs of the population of the region affected by the proposal, request or submission and meet appropriate clinical medical standards, and the degree to which the services proposed can be expected to achieve

improvements in population morbidity or mortality or patients' physical and psychological conditions;

(15) ''The contribution of such proposal, request or submission to the accessibility of health care delivery in the region'' means the impact of the proposal, request or submission on improving the ease with which services can be reached and received by the population of the appropriate region including the impact of the proposal on the alleviation of barriers to care, such as financial, geographic, organizational, cultural, information, sex, and age barriers;

(16) ''The proposal's contribution to the cost effectiveness of health care delivery in the region'' means the degree to which the proposal, request or submission is likely to achieve appropriate regional objectives at the most reasonable financial cost;

(17) Whether a clear public need exists for any proposal or request shall be determined by the Office after consideration of the information required by section 19a-643-71 of the Regulations of Connecticut State Agencies and section 19a-637 of the Connecticut General Statutes;

(18) Whether the health care facility, institution or person is ''competent to provide efficient and adequate service to the public'' means that such health care facility or institution or person is technically, financially and managerially expert and efficient as stated in subdivisions (19), (20) and (21) of this subsection;

(19) ''Technically expert and efficient'' means that a facility, institution or person:

(A) Has a past pattern of experience and training among its management and staff which indicates a high degree of skill or knowledge in their areas of responsibility including membership in professional associations and compliance with their standards; and

(B) Has implemented a program of continuing training and education to maintain current standards and meet new standards as they are promulgated.

(20) ''Financially expert and efficient'' means that a facility, institution or person:

(A) Has employed and maintained both on staff and under contract, persons with a high degree of financial skill, training and knowledge to provide ongoing financial oversight and control in all areas; and

(B)(i) Has performed at or below all of its rate and budget authorizations for the current and two most recently completed fiscal years;

(ii) Has developed and implemented programs which have produced a reduction in expenses as a result of improved efficiencies. For purposes of this principle and guideline, significant savings from improved efficiencies may mitigate a prior failure to comply with a budget or rate authorization under subparagraph (B)(i); and

(iii) If it is a new facility, institution or person, subdivision (22) of this subsection will apply.

(21) ''Managerially expert and efficient'' means that a facility, institution or person:

(A) Has employed and maintained persons with a high degree of managerial skill, training and knowledge to provide ongoing managerial oversight and control in all areas; and

(B) Has total cost for management expenses and associated overhead which are or in the case of a new facility, institution or person will be, no more than five per cent (5%) above the proportionate average managerial cost for similar facilities, institutions or persons. If information concerning a cross section of facilities, institutions or persons of a similar type is not available, in the alternate, the Office may find a facility, institution or person to be managerially efficient if the entity can demonstrate that its costs are reasonable and not unusual or excessive as to both

the number of managerial positions and the total costs of all managerial salaries, fringe benefits and associated overhead.

(22) ''That rates be sufficient to allow the health care facility or institution or person to cover its reasonable capital and operating costs'' means:

(A) The amount determined by the Office as necessary to cover the reasonable capital and operating costs of the facility, institution or person. In making this determination, the Office shall consider all the evidence in the record as well as the various tests set forth in other Office regulations and the regulations of other Connecticut state agencies, as appropriate; and

(B) That the proposed and expected rates and reimbursement projected for at least three years for a facility, institution or person, shall provide for coverage for all reasonable capital and operating costs and comply with or include a recognition of state and federal formulae or procedures for establishing such rates.

(23) ''The relationship of any proposed change to the applicant's current utilization statistics'' means the degree to which any proposed program affects or is affected by changes in patient days, admissions, procedures or other types of patient volumes;

(24) ''The teaching and research responsibilities of the applicant'' mean respectively, the responsibilities of the entity associated with the formal education of health care professionals and the responsibilities of the entity associated with applied or pure medical research;

(25) ''The special characteristics of the patient-physician mix'' means the proportionate number of patients of different types and physicians of different types that differentiate the applicant from otherwise similar facilities, institutions or persons; and

(26) ''The voluntary efforts of the applicant in improving productivity and containing costs'' means documented actions that have resulted in reductions in, or the avoidance of, costs. In addition, such efforts refer to documented actions which have resulted in the expansion of services without increases in costs.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-12. Criteria for determining if an entity is a ''central service facility''

The Office of Health Care Access shall determine whether an entity is a ''central service facility'' in accordance with section 19a-630 of the Connecticut General Statutes and subdivision 19a-643-10(16) of the Regulations of Connecticut State Agencies. Having any one of the circumstances listed in subdivisions (1) through (6), inclusive, of this subsection, shall mean that an entity is a central service facility. Whether or not an entity comes under one or more of subdivisions (1) through (6), inclusive, of this section, the commissioner or his designee may also consider, but need not be limited to, the circumstances listed in subdivisions (7) through (15), inclusive, of this section, in determining whether an entity is a central service facility.

(1) The entity is institutional in nature and practice;

(2) Patient care is or will be the responsibility of the facility rather than of the individual physician, physicians, practitioner or practitioners;

(3) Nonmedical personnel, owners or managers can or will be able to influence the operation of the entity to a significant degree;

(4) There are one or more partnerships or corporations beyond a group of practicing physicians whose practice this is or will be, who will control a business involving health services;

(5) The physician or practitioner is not practicing medicine in the area of his expertise and training, or does not hold a Connecticut license to practice medicine;

(6) A partnership with general and managing partners exists;

(7) The entity is or will be a ''health care facility or institution'' pursuant to section 19a-630 of the Connecticut General Statutes, or Chapter 368v of the Connecticut General Statutes, or is or will be licensed or designated as any type of a health care facility or institution by any Connecticut state agency or department;

(8) The patients have no prior familiarity with the physician or practitioner or any ongoing relationship with the physician or practitioner;

(9) Services such as laboratory, pharmacy, x-ray, linear accelerator and imaging, are or will be available with no free choice of the provider of such services by the patient;

(10) The entity can continue to function even if the license of its physician or physicians has, have been or may be suspended or revoked, since the entity can simply retain another physician or practitioner;

(11) Bills and charges are or will be determined by the entity rather than by the individual physician, physicians, practitioner or practitioners who provided the care or service;

(12) Income distribution is or will be determined by the entity, including an owner or a governing board or body, rather than entirely by the physician, physicians, practitioner or practitioners who provided the care or service;

(13) There are present or proposed interlocking partnerships, corporate relationships or entities with other health related corporate relationships, entities or properties;

(14) The location and services provided are a small part of a larger entity; and

(15) Any other information the Office deems relevant or pertinent.

(Adopted effective February 26, 1999)

Secs. 19a-643-13—19a-643-15. Reserved

Sec. 19a-643-16. Waiver of rules

Where good cause appears the commissioner, his designee or any presiding officer may permit deviation from the regulations of the Office of Health Care Access, except where precluded by statute.

(Effective August 23, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-17. Construction and amendment

The regulations of the Office of Health Care Access shall be so construed by the Office, commissioner, his designee and any presiding officer as to secure just, speedy and inexpensive determination of the issues presented hereunder. Amendments and additions to the regulations of the Office of Health Care Access may be adopted by the Office by being duly promulgated as regulations in accordance with chapter 54 and chapter 368z of the Connecticut General Statutes.

(Effective August 23, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-18. Computation of time

Computation of any period of time referred to in the regulations of the Office of Health Care Access begins with the first business day following that on which the act which initiates such period of time occurs, and ends on the last day of the period so computed. This last day of that period is to be included unless it is a day on which the OHCA office is closed, in which event the period shall run until the end of the next following business day unless specified otherwise in statute. When such period of time, with the intervening Saturdays, Sundays and legal holidays counted, is eleven (11) days or less, the said Saturdays, Sundays and legal holidays shall be

excluded from the computation; otherwise such days shall be included in the computation.

(Effective December 17, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-19. Extensions of time

In the discretion of the commissioner, his designee or the presiding officer, for good cause shown, any time limit prescribed or allowed by the regulations of the Office of Health Care Access, may be extended, where not precluded by statute. All requests for extensions shall be made before the expiration of the period originally prescribed or as previously extended.

(Effective August 23, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-20. Effect of filing

(a) The filing with the Office of any application, petition, complaint, request for advisory ruling, or any other filing of any nature whatsoever shall not relieve any person of the obligation to comply with any statute, regulation or order of the Office of Health Care Access.

(b) Unless the Office otherwise specifies in an express written waiver, the acceptance of the filing of any petition, application, exhibit, annex, or document of any kind whatsoever by the Office shall not constitute a waiver of any failure to comply with Office of Health Care Access regulations or statutory requirements. Where appropriate, the Office may require the amendment of any filing by the submission of additional evidence under section 19a-633 of the Connecticut General Statutes.

(c) Any petition or application filed for the purpose of securing from the Office an approval or grant of permission under the regulations or statutes of the Office of Health Care Access and any supporting evidence annexed or filed as part of such petition or application shall be part of the public records of the Office as defined by section 1-19 of the Connecticut General Statutes. Such public record will include and not be limited to all written or electronic forms, required components, pre-filed testimony, exhibits, and other evidence attached to the application as part thereof, and added evidence produced upon the direction of the Office under section 19a-633 of the Connecticut General Statutes, for the purpose of the review of the application.

(Effective August 23, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-21. Consolidation of proceedings

Proceedings involving related questions of law or fact may be consolidated at the direction of the commissioner, his designee or a presiding officer.

(Effective August 23, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-22. Forms

Wherever the Office has created any forms to implement and incorporate the information required by Office regulations for use in designated proceedings, be they for use in an application, request, proposal or budget or rate or other filing required under chapter 368z of the Connecticut General Statutes, all applicants or parties filing such applications, requests, proposals, or other filings are required to use the most current version of the appropriate form or forms package if there is one. Forms may be available in electronic as well as paper formats. Inquiries as to various options for submitting or receiving data are welcome.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-23. Ex parte communications

(a) Unless required for the disposition of ex parte matters authorized by law, no commissioner, designee or presiding officer who, in a contested case, is to render

a final decision or make a proposed final decision, shall communicate, directly or indirectly, in connection with any issue of fact, with any person or party, or, in connection with any issue of law, with any party or the party's representative, without notice and opportunity for all parties to participate. Any presiding officer, commissioner or designee may have the aid and advice of staff and agents of the Office if such persons have not received communications prohibited by this regulation. This rule shall not be construed to preclude such necessary routine communications as are necessary to permit the Office staff to investigate facts and to audit the applicable records of any party in a contested case at any time before, during and after the hearing thereof.

(b) Unless required for the disposition of ex parte matters authorized by law, no party or intervenor in a contested case, no other agency and no person who has a direct or indirect interest in the outcome of the case, shall communicate, directly or indirectly, in connection with any issue in that case, with a presiding officer, commissioner, designee or with any staff member or agent of the Office assigned to assist the presiding officer commissioner or designee in such case, without notice and opportunity for all parties to participate in the communication.

(c) Any presiding officer, commissioner, designee, or staff member assigned to a case, party or intervenor who, in a contested case, receives or makes an ex parte communication not authorized by subsections (a) or (b) shall disclose the communication to all parties. The presiding officer, the commissioner or his designee may order an appropriate remedy to deal with any unauthorized ex parte communication.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-24. Declaratory rulings

(a) Any person may petition the Office, or the commissioner or his designee on his own motion may initiate a proceeding, for a declaratory ruling as to the validity of any regulation or the applicability to specified circumstances of a provision of the general statutes, a regulation, or a final decision. The petitioner shall file with the Office an original and four (4) copies, unless a greater or lesser number of copies is expressly requested by the Office, and shall send a copy of the petition to any person that the petitioner knows or has reason to believe may be substantially affected by a declaratory ruling on the petition. The petition shall state the persons so notified and give their addresses.

(b) A petition for declaratory ruling shall contain the following sections in the order indicated here:

(1) A statement of the questions being presented for a ruling, expressed in the terms and circumstances of the specific request but without unnecessary detail. This statement shall identify the statute, regulation or final decision which is the basis for the petition and shall identify the particular aspects thereof and special circumstances to which the question of validity or applicability is directed.

(2) A statement of the facts material to the consideration of the questions presented.

(3) A statement of the position of the petitioner with respect to the questions being presented.

(4) An argument amplifying the reasons relied upon for the petitioner's position, including any appropriate legal citations may be included with the petition or be in an attached brief.

(5) A signature by the petitioner or legal representative, and the address, telephone number and facsimile machine telephone number, if any, of the petitioner and his legal representative, if applicable.

(c) The date of filing of any petition shall be the date of the business day the petition is received by the Office in the form prescribed by this regulation. Only complete petitions filed in conformance with this section will be considered received by the Office.

(d) Within thirty (30) calendar days after receipt of a complete petition the Office shall give notice of the petition to all persons to whom notice is required by any provision of law and to all persons who have requested notice of declaratory ruling petitions on the subject matter of the petition. The Office may give notice to any other person or organization that such declaratory ruling has been requested.

(e) Within forty-five calendar days of the submission of the complete petition for a declaratory ruling, persons wishing to be admitted to the proceeding as parties or intervenors shall file a petition with the Office in accordance with the provisions of sections 19a-643-37 to 19a-643-38, inclusive, of the Regulations of Connecticut State Agencies, as appropriate. Any person who petitioned for a declaratory ruling, is not automatically a party or an intervenor to a proceeding but must file a petition in accordance with sections 19a-643-37 or 19a-643-38 of the Regulations of Connecticut State Agencies, as appropriate, in order to seek such status. Such persons, in submitting their position and evidence in the declaratory ruling proceeding, shall comply with the other provisions of this section concerning the form, content and filing procedures for a petition. If the Office conducts a hearing, the Office may permit informal participants to make oral or written statements in accordance with section 19a-643-39 of the Regulations of Connecticut State Agencies.

(f) If the commissioner, his designee or presiding officer finds that a timely petition to become a party or to intervene has been filed in accordance with this section:

(1) The commissioner, his designee or presiding officer may grant a person status as a party if he finds that the petition states facts demonstrating that the petitioner's legal rights, duties or privileges shall be specifically affected by the agency proceeding; and

(2) The commissioner, his designee or presiding officer may grant a person status as an intervenor if the commissioner, his designee or presiding officer finds that the petition states facts demonstrating that the petitioner's participation is in the interest of justice and will not impair the orderly conduct of the proceedings. Such participation shall be in conformance with section 19a-643-38 of the Regulations of Connecticut State Agencies and any limitations the commissioner, his designee or presiding officer deems appropriate.

(g) Within sixty (60) days after receipt of a complete petition for a declaratory ruling, the Office in writing shall:

(1) Issue a ruling declaring the validity of a regulation or the applicability of the provision of the general statutes, the regulation, or the final decision or order in question to the specified circumstances;

(2) Order the matter set for specified proceedings;

(3) Agree to issue a declaratory ruling by a specified date;

(4) Decide not to issue a declaratory ruling and initiate regulation-making proceedings, under section 4-168 of the Connecticut General Statutes, on the subject; or

(5) Decide not to issue a declaratory ruling, stating the reasons for its action.

(h) A copy of all rulings issued and any actions taken under subsection (g) of this section shall be promptly delivered to the petitioner and other parties personally, or by United States mail, certified or registered, postage prepaid, return receipt requested.

(i) If the commissioner, his designee or presiding officer deems a hearing necessary or helpful in determining any issue concerning the request for declaratory ruling, the Office shall schedule such hearing and give such notice thereof as shall be appropriate. If the commissioner, his designee or presiding officer conducts a hearing in a proceeding for a declaratory ruling, the provisions of subsection (b) of section 4-177c and section 4-178 to section 4-179, inclusive, of the Connecticut General Statutes shall apply to the hearing. In addition, if the Office conducts a hearing, the provisions of section 4-181 of the Connecticut General Statutes and section 19a-643-23 of the Regulations of Connecticut State Agencies, shall apply from the date the notice of hearing is issued.

(j) Prior to any scheduled hearing the commissioner, his designee or presiding officer may order the parties to meet with him or his designee for the purpose of obtaining stipulations of fact, joint exhibits, disclosure of evidence and identification of witnesses and issues to be raised at the formal hearing. The Office may require the prefiling of testimony or the case in chief prior to any hearing date. Failure to disclose evidence, witnesses or issues at a pre-hearing meeting or as part of a prefiling submission may result in the presiding officer denying the introduction of such evidence, testimony or issues at the formal hearing.

(k) The declaratory ruling shall contain the names of all parties to the proceeding, the particular facts on which it is based and the reasons for its conclusion. The declaratory ruling shall be effective when personally delivered, or mailed or on such later date specified by the Office in its ruling and shall have the same status and binding effect as an order issued in a contested case and shall be a final decision for purposes of appeal in accordance with the provisions of section 4-183 of the Connecticut General Statutes.

(*l*) The failure of the Office to issue a declaratory ruling within one hundred eighty days after the filing of a petition therefore, or within such longer period as may be agreed by the parties, shall be deemed to be a decision not to issue such ruling.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-25. Civil penalty for failure to file data

(a) **General purpose.**

(1) Any health care facility or institution or person required to file data or information under chapter 368z of the Connecticut General Statutes or under any public or special act, regulation or order adopted or issued pursuant to said chapter, regulation or act, shall file such data or information with the Office in a complete and accurate manner, in the form and manner prescribed, within the prescribed time period or periods. Any facility, institution or person which fails to make such filing of the data or information on or before the due date, shall be subject to a civil penalty of up to the amount permitted under section 19a-653 of the Connecticut General Statutes, for each day after such filing date that the data or information due on that date is missing, incomplete or inaccurate. Any civil penalty authorized under this section shall be imposed in accordance with the provisions of subsections (b) through (i) of this section.

(2) Nothing in this regulation shall preclude the Office from pursuing any other remedy or relief available to it under any other statute or regulation in addition to the imposition of a civil penalty under this section.

(b) **Notice.**

The commissioner of health care access or his designee, prior to the imposition of any civil penalty under this section, shall notify any facility, institution or person subject to such civil penalty of the following:

(1) what data or information is due;

(2) the date on or before which the data or information is or was due;

(3) that the Office intends to impose a civil penalty in accordance with this section if such data or information is not filed as required by subsection (a) of this section;

(4) the proposed amount per day for such civil penalty;

(5) the proposed starting date for the imposition of such penalty.

(6) the statute, act, order or regulation under which the required data or information was to be submitted.

(c) **Requests.**

(1) A facility, institution or person which wishes to request a waiver of part or all of the proposed civil penalty, or an extension of time to file the required information, or both, shall do so by filing, in writing, at the OHCA office, in accordance with sections 19a-643-29 to 19a-643-33, inclusive, of the Regulations of Connecticut State Agencies, on or before the close of business within ten (10) calendar days of the date of receipt of the notice specified in subsection (b) of this section, a request that the Office waive part or all of the civil penalty or extend the time for filing the required information, or both. Any such request for a waiver or time extension or both shall be filed as one document or submission and shall contain a full explanation of why such data or information was missing or not filed on the required date, or why the data or information was incomplete or inaccurate on that date or all of the listed possibilities, as appropriate, and shall list and explain any and all extenuating circumstances, if any, which the facility, institution or person wishes the Office to consider when evaluating the request. The burden of proof shall be on the facility, institution or person to demonstrate that its submission was submitted when due, was complete and accurate and was in the form and manner prescribed, or to demonstrate good cause for the failure to file in a timely manner.

(2) If a request is filed per subdivision (1), of this subsection, within the required time period, the Office shall not impose any civil penalty until it issues a decision on the waiver request or time extension request, or both, as appropriate. If a waiver is requested, the Office shall grant the waiver, or hold a hearing as soon as possible on the request, or both.

(d) **Hearing.**

If a hearing is to be held, notice of the date and time of the hearing shall be sent to the facility, institution or person within ten (10) business days of the request. In addition to the provisions governing hearings in sections 19a-643-44 to 19a-643-66, inclusive, of the Regulations of Connecticut State Agencies, the following shall apply:

(1) The commissioner, his designee or a presiding officer shall evaluate the relevant information in the waiver or time extension request and any related or relevant information.

(2) Prefiled testimony: Notwithstanding the provisions of section 19a-643-51(e) of the Regulations of Connecticut State Agencies, a facility, institution or person shall prefile an original and three (3) copies of testimony to be offered in support of its request, unless a greater or lesser number of copies is expressly requested by the Office. In addition, the prefiling shall be prior to the hearing on such date as the office shall direct, which date shall not be more than three (3) business days before such hearing. No prefiled testimony shall be required unless the facility, institution or person received at least three (3) business days notice in advance of the prefiling date.

(3) Pagination: The requesting entity and any other party or intervenor shall paginate all prefiled testimony, any late filed materials and any other submissions to or required by the Office in connection with this proceeding.

(e) **Waiver decision.**

The Office shall issue a final decision as to whether or not the civil penalty shall be waived, in whole or in part, due to the extenuating circumstances, within ten (10) business days of the close of the hearing or the date of the request, if no hearing is held. The penalty may be waived in whole or in part by reducing or eliminating the amount of the per day penalty imposed from that originally proposed.

(f) **Time extension decision.**

A time extension may be granted to a facility, institution or person to delay the date on which data or information must be submitted to the Office. If such an extension is granted, it shall be granted to a date certain. Failure to submit the required data or information by that extended date may result in the imposition of a civil penalty from the day after the extended due date onward. A civil penalty imposed due to a facility's, institution's or person's failure to comply with an extended deadline shall be effective at the expiration of the time extension without further notice or action by the Office under this section.

(g) **Reduction of civil penalty.**

The commissioner or his designee following the receipt of a portion of the required data or information, the lack or incompleteness or inaccuracy of which has been the subject of a civil penalty, may reduce, in whole or in part, the civil penalty so imposed in recognition of the receipt of the data or information. Any such reduction shall be in writing. If such a reduction is granted, it may also be retroactive to the date the portion of the data or information was received but no earlier. The portion of a civil penalty so reduced may not be reinstated or increased without renotice and recompliance by the Office with this section.

(h) **Criteria.**

The Office's evaluation of a waiver or time extension request or the imposition of the amount of a civil penalty shall be based on, but not limited to: any extenuating circumstances demonstrated by the facility, institution or person; the facility's, institution's or person's demonstration of a good faith effort to comply with the appropriate statute, act, order, regulation or regulations or lack thereof; the facility's, institution's or person's past history of compliance with the submission of data or information requirements, the length of the delay in filing, the degree of incompleteness or inaccuracy and other relevant criteria.

(i) **Effective date.**

(1) Unless a request for a waiver or time extension or both is filed with the Office in conformance with subsection (c) of this section, any civil penalty imposed under this section and noticed under subsection (b) of this section shall be effective on the first calendar day after such data is due or after the ten-day notice period, whichever is later. Nothing in this section shall prevent the Office from providing notice more than ten calendar days before the date on which the information is due.

(2) If a waiver is denied, in whole or in part, any civil penalty imposed under this section shall be effective on the first calendar day after such denial.

(j) **Appeals.**

(1) Within ten business days of the Office's imposition of a civil penalty, any facility, institution or person which is aggrieved by a decision under this section may appeal to the superior court under section 4-183 of the Connecticut General Statutes.

(2) Any appeal to the superior court shall not automatically stay the imposition of any civil penalty under this section.

(Effective February 23, 1990; transferred and amended, February 26, 1999)

Secs. 19a-643-26—19a-643-28. Reserved

Part 2: Formal Requirements

Sec. 19a-643-29. Filing of documents

(a) **General rule.** Any documents, including any petitions or applications shall be filed with the commissioner, his designee or a presiding officer at OHCA's principal office by personal delivery, by first class mail, or, if authorized in writing by OHCA, by electronic means, including, but not limited to, facsimile machine, electronic mail, disk or tape, provided the information submitted is in a clear and accurate form that is readable, usable and acceptable to the agency and in a format approved by the OHCA commissioner or his designee.

(b) **Date of filing.** Any documents, including any petitions or applications shall be deemed to have been filed or received on the date on which they are received by OHCA at its principal office. Any document which is received after normal business hours shall be deemed to have been filed on the following normal business day. Filing of any document means receipt of any original signed document and the proper number of copies.

(c) Where OHCA, its commissioner, his designee or a presiding officer has directed the filing of data or information with an agent of OHCA either exclusively or in addition to any filing directly with OHCA, the data or information will be filed with that agent on the date received by the agent if received during normal business hours or on the next following business day if not received during normal business hours.

(d) Where OHCA, its commissioner, his designee or a presiding officer directs that data or information be filed exclusively in a medium or format other than written, compliance with such direction shall waive the requirement for an original signature and copies for that submission or portion of a submission, unless otherwise specified by OHCA.

(e) All such documents filed at OHCA shall be served by the person filing the same on every person that has theretofore been designated a party in the proceeding and every person who has been designated an intervenor, unless otherwise ordered by OHCA. Certification of such service shall be endorsed on all documents and other papers when filed with OHCA.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-30. Identification of communications

Communications should embrace only one matter, and should contain the name and address, telephone number, facsimile machine telephone number, and electronic mail address, if any, of the sender, and an appropriate file reference to the subject of the communication. When the subject matter pertains to a proceeding pending before the Office, the title of the proceeding and the Office docket number should also be given.

(Effective August 23, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-31. Signatures

Every application, notice, motion, petition, brief and memorandum shall be signed by the filing person or by one or more attorneys in their individual names on behalf of the filing person.

(Effective August 23, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-32. Formal requirements as to documents and other papers filed in proceedings

(a) **Copies.** Except as may be otherwise required by any statute or other regulations of the Office or as ordered or expressly requested by the Office, its commissioner, his designee or a presiding officer, at the time motions, petitions, applications, documents, or other papers are filed with the Office there shall be furnished to the Office the original of such papers. In addition to the original there shall also be filed three (3) copies for the use of the Office, the staff, and the public, unless a greater or lesser number of such copies is expressly requested by the Office.

(b) **Form.** Except for such forms or formats as may from time to time be provided or specified by the Office and used where appropriate, all documents and papers, including but not limited to motions, petitions, applications, notices, briefs, exhibits and all other written materials filed for the purpose of any proceeding before the Office shall be printed or typewritten on paper cut or folded to letter size 8 1/2 x 11 inches in dimension. Width of margins shall be not less than 1 inch. The impression shall be on only one side of the paper, unless printed, and shall be double spaced, except that quotations in excess of five (5) typewritten lines shall be single spaced and indented. All pages shall be numbered consecutively. Mimeographed, multigraphed, photo-duplicated or similarly reproduced copies of typewritten or printed originals will be accepted as typewritten or printed, provided all copies filed are clear and permanently legible. Variation in size, shape or format will be allowed by express grant of permission by the commissioner, his designee or a presiding officer.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-33. Service

(a) All orders, decisions, correspondence, notices and any other documents issued by the Office, its commissioner, his designee or presiding officer shall be deemed to have been issued on the date such document is mailed, personally delivered or sent by facsimile machine or electronic mail.

(b) **Service by the Office.** A copy of any document or other paper served by the Office, showing the addressees to whom the document or other paper was mailed, personally delivered or sent by facsimile machine or electronic mail, shall be placed in the Office's files and shall be prima facie evidence of such service and the date thereof.

(c) **Service as written notice.** Written notice of all orders, decisions or authorizations, issued by the Office shall be given to the party affected thereby and to such other person as the commissioner, designee or presiding officer may deem appropriate by personal service upon such person, by facsimile machine, electronic mail, or by first class mail, as the commissioner, designee or presiding officer determines. Any document which is required by statute to be issued in a particular manner shall be so issued. The final decision in a case shall be delivered promptly to each party or his authorized representative, personally or by United States Mail, certified or registered, postage prepaid, return receipt requested.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Secs. 19a-643-34—19a-643-35. Reserved

ARTICLE 2: CONTESTED CASES

Part 1: Parties, Intervention and Participation

Sec. 19a-643-36. Designation of parties

In issuing the notice of hearing the presiding officer will designate as parties those persons known to the Office whose legal rights, duties or privileges are required by statute to be determined by the Office or whose legal rights, duties or privileges will be specifically affected by the Office's decision and any person who is required by law to be a party in the proceeding. All other persons proposing to be named or admitted as parties shall apply for such designation in the manner described in sections 19a-643-37, 19a-643-40 and 19a-643-41 of the Regulations of Connecticut State Agencies. No other person shall be or have standing before the Office as a party within the definition of section 4-166(8) of the Connecticut General Statutes.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-37. Application to be designated a party

(a) **Filing of petition.** Any other person that proposes in a contested case to be designated or admitted as a party, as defined by section 4-166(8) of the Connecticut General Statutes, shall file a written petition to be so designated and shall mail copies to all parties not later than five (5) calendar days before the date of the hearing. For good cause shown the presiding officer may waive the five day requirement.

(b) **Contents of petition.** The petition to be designated a party shall state the name and address of the petitioner. It shall state facts that demonstrate that the petitioner's legal rights duties and privileges shall be specifically affected by the Office's decision in the contested case. It shall state the position of the petitioner concerning the issue of the proceeding, the relief sought by the petitioner, the statutory or other authority therefore, and a summary of any evidence that the petitioner intends to present in the event that the petition is granted.

(c) **Designation as party.** A presiding officer shall consider all such petitions and will designate or admit as a party in a contested case any person whose legal rights, duties or privileges are required by statute to be determined by the Office or whose legal rights, duties or privileges will be specifically affected by the decision of the Office and any person who is required by law to be a party in the proceedings.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-38. Participation by intervenors

(a) **Filing of petition.** Any person that proposes to be designated or admitted as an intervenor shall file a written petition to be so designated and shall mail copies to all parties not later than five (5) calendar days before the date of hearing. For good cause shown, the presiding officer may waive the five day requirement.

(b) **Contents of request.** The request of the proposed intervenor shall state such person's name and address and shall describe the manner in which that person is affected by the contested case. The proposed intervenor shall further state what way and to what extent that person proposes to participate in the hearing, and shall summarize any evidence that person proposes to offer.

(c) **Designation as intervenor.** The presiding officer will act on behalf of the Office to determine the proposed intervenor's participation in the hearing, taking into account whether or not such participation will furnish assistance to the Office

in resolving the issues of the contested case. The presiding officer may grant the request to intervene if the presiding officer finds that the proposed participation as an intervenor will add evidence or arguments on the issue of the contested case that would otherwise not be available to the Office, is in the interest of justice and will not impair the orderly conduct of the proceedings.

(d) **Limitation on participation.** The intervenor's participation shall be limited to those particular issues, that state of the proceeding and that degree of involvement in the inspection and copying of records, presentation of evidence and argument that the presiding officer shall permit at the time such intervention is allowed, and thereafter by express order upon further application by the said intervenor or upon a finding by the presiding officer that an intervenor's participation must be further restricted so as to promote the orderly conduct of the proceedings.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-39. Participation by informal participants

(a) **Request to participate.** At any time prior to the commencement of oral testimony in any hearing in a contested case, any person may request that the presiding officer permit that person to present an oral or written statement. Such statements shall be limited to non-expert opinions except as otherwise allowed by the presiding officer, if the presiding officer finds that the parties will not be prejudiced and that the statement may furnish assistance to the Office in resolving the issues of the contested case.

(b) **Contents of request.** The request shall state such person's name and address, the length of any proposed written statement or the time requested to make any oral statement.

(c) **Designation as informal participant.** The presiding officer may grant or deny the request and may limit the time such a participant has to make a statement. An informal participant who makes a statement of fact or gives an expert opinion on a central issue in the contested case may be subject to cross-examination or, if the statement is made without authorization from the presiding officer, have the statement stricken from the record, at the discretion of the presiding officer.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-40. Procedure concerning added parties

(a) **During hearing.** In addition to the designation of parties in the initial notice and in response to petition or on the initiative of the presiding officer, the presiding officer may act on behalf of the Office to add parties at any time during the pendency of any hearing upon the presiding officer's finding that the legal rights, duties or privileges of any person are required by statute to be determined by the Office or will be specifically affected by the Office or that such person is required by law to be a party in the proceeding.

(b) **Notice of designation.** In the event that the presiding officer thus designates or admits any party after service of the initial notice of hearing in a contested case, the Office shall give notice thereof to all parties theretofore designated or admitted. The form of the notice shall be a copy of the order of the Office naming or admitting such added party.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-41. Representation of parties and intervenors

Each person authorized to participate in a contested case as a party or as an intervenor shall file a written notice of appearance with the Office or presiding

officer. Such appearance may be filed in behalf of parties and intervenors by an attorney, an agent, or other duly authorized representative subject to the rules stated in sections 19a-643-1 to 19a-643-40, inclusive, of the Regulations of Connecticut State Agencies.

(Effective December 17, 1984; transferred and amended, February 26, 1999)

Secs. 19a-643-42—19a-643-43. Reserved

Part 2: Hearing, General Provisions

Sec. 19a-643-44. Commencement of contested case

(a) Where a hearing is required pursuant to chapter 368z, the contested case shall commence on the date of filing of the petition or application for purposes of section 4-181 of the Connecticut General Statutes.

(b) Where a hearing may be waived pursuant to chapter 368z and a request for a waiver of hearing has been submitted within twenty (20) business days of the submission of a complete application, the proceeding shall not become a contested case until and unless the waiver has been denied and an initial notice of hearing for purposes of section 4-181 of the Connecticut General Statutes, is issued. The date of service of the initial notice of hearing shall be the date on which the contested case commences under this subsection.

(Effective August 23, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-45. Waiver of hearing

(a) **Applicability:** The provisions of this section shall apply to applications subject to review under section 19a-639 of the Connecticut General Statutes.

(b) **Eligibility To Apply For Waiver:** The applicant shall be eligible for consideration of waiver of hearing based upon a demonstration that the proposal qualifies as any one of the following:

(1) An application to establish energy conservation programs or to comply with federal, state or local health, fire, building or life safety code or a final court order requirements;

(2) An application which is non-substantive as defined in subdivision 19a-643-95(3) of the Regulations of Connecticut State Agencies.

(c) **Procedure:** Within twenty (20) business days after the submission of a completed application the applicant shall file, in writing, a request for waiver of hearing and a demonstration that the proposal is eligible for such consideration pursuant to this section.

(1) Within ten (10) business days after the date of receipt of the request for waiver, the commissioner or his designee shall determine if the application is eligible for consideration of waiver of hearing.

(2) Upon a determination of eligibility for consideration of waiver of hearing pursuant to subsections (b), and (c)(1) of this section, the Office shall so notify the applicant and a notice shall be published in a newspaper having substantial circulation in the area proposed to be served by the applicant. The notice shall include but shall not be limited to the following:

(A) identification of the applicant and a short and plain statement describing the proposal and the amount of any capital expenditure involved;

(B) a reference to the particular statutes and regulations involved;

(C) a statement indicating that a request for waiver of public hearing has been received and,

(D) the manner in which interested persons may present their views thereon.

(3) Upon close of the public comment period in subsection (c)(2) of this section, the commissioner or his designee shall determine whether waiver of the public hearing shall be granted. Once a determination is made whether or not to waive the public hearing, the Office shall render its decision in accordance with the time periods prescribed in section 19a-639 of the Connecticut General Statutes.

(Effective December 17, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-46. Calendar of hearings

The Office shall maintain a docket of all proceedings of the Office. The Office shall maintain a hearing calendar of all proceedings that are to receive a hearing. Proceedings shall be placed on the hearing calendar in the order in which the proceedings are listed on the docket of the Office, unless otherwise ordered by the commissioner or his designee.

(Effective December 17, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-47. Place of hearings

Unless by statute or by direction of the commissioner, his designee or a presiding officer a different place is designated, all hearings of the Office shall be held at Hartford.

(Effective August 23, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-48. Notice of hearings

(a) **Persons notified.** Except where the commissioner shall otherwise direct, OHCA or the presiding officer shall give written notice of a hearing in any pending matter to all parties, to all persons who have been permitted to participate as intervenors, to all persons otherwise required by statute to be notified, and to such other persons as have filed with the Office their written request for notice of hearing in a particular matter. Also, the Office shall give written notice to such additional persons as the commissioner, his designee or presiding officer shall direct. The Office may give notice by newspaper publication and by such other means as the commissioner, his designee or presiding officer shall deem appropriate and advisable.

(b) **Contents of notice.** 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;

(3) a reference to the particular sections of the statutes and regulations involved;

(4) a short and plain statement describing the nature of the hearing and the principal matters to be considered.

(5) A list of all persons designated or known to the Office as parties may be included in the initial notice of hearing given in each contested case, but shall be omitted from any subsequent notice of hearing therein, except where the commissioner, his designee or presiding officer shall otherwise direct.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Secs. 19a-643-49—19a-643-50. Reserved

Part 3: Hearings, Procedure

Sec. 19a-643-51. General provisions

(a) **Purpose of hearing.** The purpose of the hearing in a contested case shall be to provide to all parties an opportunity to present evidence and argument on all issues to be considered by the Office.

(b) **Order of presentation.** In hearings on applications and petitions, the party that shall open and close the presentation of any part of the matter shall be the applicant or petitioner. In a case where the direct testimony has already been submitted in written form as provided by these rules, the hearing shall open with the direct testimony's being read into the record or, at the discretion of the presiding officer, the hearing shall open with an opportunity for a brief opening statement from the applicant or petitioner, or from a designated spokesperson if there is more than one applicant on a project, followed by the cross examination of persons who have given written testimony. In the event any person has given written testimony and is not available for such cross examination at the time and place directed by the Office, all of such written testimony may be stricken from the record at the direction of the presiding officer. The presiding officer at his discretion may change the order of presentation by participants at a hearing.

(c) **Limiting number of witnesses.** To avoid unnecessary cumulative evidence, the presiding officer may limit the number of witnesses or the time for testimony upon a particular issue in the course of any hearing.

(d) **Limitation of direct case.** The direct case of any applicant or petitioner shall consist substantially of the written statement of the application or petition, and the exhibits and other materials annexed thereto unless the presiding officer shall rule otherwise for good cause shown. All prepared written testimony filed with the statement of the application or petition shall be received in evidence with the same force and effect as though it were stated orally by the witnesses, provided that each such witnesses shall be present at the hearing at which such prepared written testimony is offered, shall adopt such written testimony under oath, and shall be made available for cross examination as directed by the presiding officer. Prior to its admission such written testimony shall be subject to objections by parties.

(e) The presiding officer may require any party or other participant that proposes to offer substantive, technical or expert testimony, to prefile such testimony in written form on such date before or during the public hearing as the presiding officer shall direct. Such prefiled written testimony shall be received in evidence with the same force and effect as though it were stated orally by the witnesses who have given the evidence, provided that each witness shall be present at the hearing at which the prefiled written testimony is offered, shall adopt the written testimony under oath, and shall be made available for cross examination as directed by the presiding officer. Prior to its admission such written testimony shall be subject to objections by parties.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-52. Witnesses, subpoenas, and production of records

The commissioner, his designee or any presiding officer, or any agent authorized by the commissioner to conduct any inquiry, investigation or hearing shall have power to administer oaths and take testimony under oath relative to the matter of inquiry or investigation. At any hearing or investigatory proceeding, the commissioner, his designee or the presiding officer or such agent having authority by law to issue such process may subpoena witnesses and require the production of records, papers and documents pertinent to such inquiry. If any person disobeys such process or, having appeared in obedience thereto, refuses to answer any pertinent question put to him by the commissioner or any person designated by the commissioner to conduct a proceeding or by the presiding officer or any authorized agent or to produce any records and papers pursuant thereto, the commissioner, or any person designated by the commissioner to conduct a proceeding or the presiding officer or

any authorized agent may apply to the superior court for Hartford county or for the county wherein the person resides or wherein the business has been conducted, or to any judge of said court if the same is not in session, setting forth such disobedience to process or refusal to answer, and said court or such judge shall cite such person to appear before said court or such judge to answer such question or to produce such records and papers.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-53. Rules of evidence

The following rules of evidence shall be followed in hearings concerning contested cases:

(a) **Rules of evidence.** Any oral or documentary evidence may be received, but the presiding officer shall, as a matter of policy, exclude irrelevant, immaterial or unduly repetitious evidence. The presiding officer shall give effect to the rules of privilege recognized by law in Connecticut. Subject to these requirements and subject to the right of any party to cross examine, any testimony may be received in written form.

(b) **Documentary evidence.** Documentary evidence may be received at the discretion of the presiding officer in the form of copies or excerpts, if the original is not found readily available. Upon request by any party an opportunity shall be granted to compare the copy with the original, which shall be subject to production by the person offering such copies, within the provisions of section 52-180 of the Connecticut General Statutes.

(c) **Cross examination.** Such cross examination may be conducted as the presiding officer shall find to be required for a full and true disclosure of the facts.

(d) **Facts noticed, Office records.** The presiding officer may take notice of judicially cognizable facts, including prior decisions and orders of the Office. Any exhibit admitted as evidence by the Office in a prior hearing may be offered as evidence in a subsequent contested case and admitted as an exhibit therein; but the presiding officer shall not deem such exhibit to be judicially cognizable in whole or in part and shall not consider any facts set forth therein unless such exhibit is duly admitted as evidence in the contested case then being heard.

(e) **Facts noticed, procedure.** The presiding officer may take notice of generally recognized technical or scientific facts within the Office's specialized knowledge. Parties shall be afforded an opportunity to contest the material so noticed by being notified before or during the hearing, or by an appropriate reference in preliminary reports or otherwise of the material noticed. The presiding officer shall nevertheless employ his and the Office staff's and any noticed consultant's or advisor's experience, technical competence, and specialized knowledge in evaluating the evidence presented at the hearing for the purpose of making its finding of the facts and arriving at a decision in any contested case.

(Effective August 23, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-54. Filing of added exhibits and testimony

Upon order of the presiding officer before, during or after the hearing of a case any party shall prepare and file added exhibits and written testimony.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-55. Requests for production

(a) In a contested case, a party or an intervenor who has been granted the right pursuant to section 19a-643-38 of the Regulations of Connecticut State Agencies,

may obtain in accordance with the provisions of this section production and inspection of records, papers and documents relevant and material to the subject matter of the proceeding, which are not privileged and except as otherwise provided by federal law or any other provision of the Connecticut General Statutes. A request for production made upon or by an intervenor must be limited to those issues and facts which were designated in the petition granting him intervenor status.

(b) At the earliest possible time in a contested case, a party or intervenor granted discovery rights in a contested case may serve upon any other party or intervenor a request to afford the party or intervenor submitting the request the opportunity to inspect or copy or both, designated records, papers and documents in the possession, custody or control of the party or intervenor upon whom the request is served. A person who files a petition for intervenor or party status within ten (10) calendar days of a hearing and who wishes to serve a request for production must serve it at the same time he files the petition.

(c) The request shall clearly designate the items to be inspected either individually or by category. The request shall specify a reasonable time, place and manner of making the inspection.

(d) The party serving such request upon another party or intervenor shall not file it with the Office but shall instead file a notice with the Office which states that he has served a request for production on another party or intervenor, the name of the other party or intervenor and the date upon which service was made.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-56. Responses to requests for production — objections

(a) The party or intervenor to whom the request is directed or his attorney shall serve a written response within five (5) calendar days after the filing of the notice required by section 19a-643-55 of the Regulations of Connecticut State Agencies, or within five (5) calendar days of the mailing by the Office of a notice that the requesting person has been made a party or intervenor with discovery rights, whichever is later, unless, upon motion, the commissioner, his designee or presiding officer may allow a longer time.

(b) The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request or any part thereof is objected to, in which event the reasons for objection shall be stated in the response. Where a request calling for submission of copies of documents is not objected to, those copies shall be appended to the copy of the response served upon the party making the request but shall not be appended to the response filed with the Office. Objection by a party to certain parts of the request shall not relieve that party of the obligation to respond to those portions to which he has not objected within the five (5) day period.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-57. Motions for compliance

(a) The party or intervenor serving a request for production pursuant to section 19a-643-55 of the Regulations of Connecticut State Agencies, may move for an order under this section with respect to any failure on the part of the requestee to respond or with respect to any disagreement over objections filed to the request.

(b) If a motion for compliance is granted as to any part of a request for production, compliance with the request shall be made at a time set by the commissioner, presiding officer or designee.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-58. Rulings on motions for compliance

(a) The presiding officer or, if one has not yet been designated, the commissioner or his designee shall consider the following factors in ruling on a motion for compliance:

(1) The timeliness of the request for production or the motion for compliance or both, and whether granting the request would prejudice any party or would interfere with the orderly conduct of the proceedings;

(2) The relevance and materiality of the requested material;

(3) The failure of the requestee to file timely and proper objections;

(4) The existence of any privilege or other bar to disclosure pursuant to federal law or state law;

(5) Any other relevant factors.

(b) The presiding officer or the commissioner or his designee may order an in camera inspection of a requested document if, in his discretion, such inspection is necessary to rule on a motion for compliance.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-59. Failure to comply with an order on a motion for compliance

(a) If a party or intervenor has failed to comply with an order of the presiding officer or the commissioner or his designee that such party or intervenor comply with a request for production, the presiding officer or the commissioner or his designee may make such order as the ends of justice require. Such orders may include the following:

(1) The denial of the petition or application of the party failing to comply;

(2) The entry of an order that the matters regarding which the discovery was sought or other related facts shall be taken to be established for the purposes of the action in accordance with the claim of the party or intervenor obtaining the order;

(3) The entry of an order prohibiting the party who has failed to comply from introducing designated matters into evidence;

(4) The limitation of participation by the party or intervenor who has failed to comply in the hearing on issues or facts relating to the discovery sought;

(5) The enforcement of the order in court.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-60. Continuing duty to disclose

If subsequent to compliance with any request or order for discovery and prior to or during hearing a party or intervenor discovers additional or new material or information previously requested and ordered disclosed or discovers that the prior compliance was totally or partially incorrect or, though correct when made, is no longer true and the circumstances are such that a failure to amend the compliance is in substance a knowing concealment, he shall promptly notify the other party, or his attorney, and file and serve in accordance with section 19a-643-56 of the Regulations of Connecticut State Agencies, a supplemental or corrected compliance.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-61. Subpoenas issued pursuant to section 51-85 of the Connecticut General Statutes

(a) An attorney representing a party or intervenor may issue subpoenas to compel the attendance of witnesses and subpoenas duces tecum in hearings scheduled before the Office.

(b) **Subpoenas duces tecum.**

The party or intervenor against whom a subpoena duces tecum has been issued shall bring the documents to the hearing and place them under the control of the presiding officer. If such party or intervenor has a claim of privilege, relevancy, materiality, confidentiality or vagueness, he shall file a motion to quash or to seal the records or both, with the presiding officer. The presiding officer or his designee may make an in camera inspection of the documents to determine these claims and to make any proper order for their protection. If such party or intervenor has a claim of oppressive broadness, he shall, as quickly as possible, file a motion to quash with the presiding officer who shall determine whether or not the documents should be produced.

(c) **Subpoenas of witnesses.**

A witness who has been subpoenaed to an Office proceeding shall make any claims of privilege, relevancy, confidentiality or vagueness to the presiding officer.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Secs. 19a-643-62—19a-643-63. Reserved

Part 4: Hearings, Decision

Sec. 19a-643-64. Uncontested disposition of case

Unless precluded by law, any contested case may be resolved by stipulation, agreed settlement, consent order or default upon order of the commissioner or his designee. Upon such disposition a copy of the order of the Office shall be served on each party.

(Effective August 23, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-65. Proposed final decision

The Office will proceed in the following manner in contested cases where the commissioner or his designee, if the designee is authorized to make the final decision, has not heard the case or read the record. The decision, if adverse to a party, shall not be rendered by the commissioner or his designee until a proposed final decision is served upon all of the parties, and until an opportunity has been afforded to each party adversely affected by the proposed decision to file exceptions, to present briefs, and to make oral argument before the person who will make the final decision.

(a) The record before the Office in a contested case shall include:

(1) all motions, applications, petitions, complaints, pleadings, notices related to the case, and intermediate rulings;

(2) the evidence received and considered by the presiding officer;

(3) questions and offers of proof, objections, and all rulings thereon during the hearing;

(4) any proposed final decision by the presiding officer to the commissioner or his designee authorized to make the final decision;

(5) the official transcript, if any, of proceedings relating to the case, or, if not transcribed, any recording or stenographic record of the proceedings.

(b) In the proposed final decision to be served upon the parties the presiding officer will set forth a statement of the reasons for the decision and a finding of facts and conclusion of law on each issue of fact or law necessary to reach the proposed decision.

(c) Compliance with the requirement of subsection (b) of this subsection for the proposed decision may be waived by a written stipulation of the parties.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-66. Final decision

All decisions and orders of the Office concluding a contested case shall be in writing. The Office will serve a copy of its decision on each party in the manner required by the regulations of the Office of Health Care Access and section 4-180 of the Connecticut General Statutes.

(Effective August 23, 1984; transferred and amended, February 26, 1999)

Secs. 19a-643-67—19a-643-68. Reserved

ARTICLE 3: PETITIONS AND APPLICATIONS

Part 1: Petitions and Applications, General Provisions

Sec. 19a-643-69. General rule

Petitions and applications shall include all forms of proposals, requests, applications, petitions, and filings of whatever nature whatsoever that are placed before the Office of Health Care Access pursuant to law.

(Effective August 23, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-70. Function of application

The petition or application and annexed materials will be treated by the commissioner, his designee or presiding officer as a substantially complete statement of the case in chief of the applicant or petitioner.

(Effective August 23, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-71. Required components, general

The form to be followed in the filing of petitions, submissions and applications under the regulations of the Office of Health Care Access, will vary to the extent necessary to provide for the nature of the legal rights, duties or privileges involved therein. Nevertheless, all petitions, submissions and applications shall include the following components:

(a) **Statement of application.** Each petition, submission or application shall incorporate a statement setting forth clearly and concisely the authorization or other relief sought. The statement shall cite by appropriate reference the statutory provision or other authority under which such authorization or relief is to be granted by the Office. In addition to the specific requirements for particular types of petitions and applications that may be stated in the regulations of the Office of Health Care Access, the statement of application shall further set forth:

(1) The exact legal name of each person seeking the authorization or relief and the address or principal place of business of each such person. If any applicant or petitioner is a corporation, trust, association or other organized group, it shall also give the state under the laws of which it was created or organized.

(2) The name, title, address, telephone number, facsimile telephone number and electronic mail address, if any, of the attorney or other person to whom correspondence or communications in regard to the petition or application shall be addressed. Notice, orders and other papers may be served upon the person so named; and such service shall be deemed to be service upon the petitioner or applicant.

(3) A concise and explicit statement of the facts on which the Office is expected to rely in granting the authorization or other relief sought, including the public convenience and necessity thereof.

(4) An explanation of any unusual circumstances involved in the petition or application to which the Office will be expected to direct its particular attention,

including the existence of emergency conditions or any request for the granting of interlocutory relief by way of an interim order in the proceeding.

(b) **Annexed materials.** There shall be attached to the petition or application and prefiled as part thereof any and all exhibits, sworn written testimony, data, models, illustrations and all other materials that the petitioner or applicant deems necessary or desirable to support the granting of the petition or application. In addition, such annexed materials shall also include such exhibits, sworn written testimony, and other data that any statute or the regulations of the Office of Health Care Access may require for the lawful determination of the petition or application.

(c) All requests, proposals or submissions involving rates or services by any health care facility or institution or person, shall include evidence as described in subdivisions (1) to (18), inclusive, of this subsection, which relates to each of the principles and guidelines that appear in section 19a-637 of the Connecticut General Statutes. Such evidence shall be submitted in the form required by subsection (b) of this section, and, where applicable, on forms, a form package or in a format which implements the regulations of the Office of Health Care Access.

(1) Evidence that the state health plan (SHP) has been considered in the development of the proposal, and evidence documenting the consistency of the proposal with the goals, objectives and standards contained within the SHP. The applicant shall cite specific goals and objectives that relate to the proposal and explain how the completion of the proposal would help to achieve these goals and objectives. If more than twenty-four months has elapsed since the plan's last revision or update, it shall not be considered to be a current document. In instances in which the applicant's proposal appears to contradict SHP goals, objectives, or standards, the applicant shall provide evidence of mitigating circumstances that would suggest that approval of the proposal is nevertheless appropriate. If the applicant maintains that its proposal does not relate to the state health plan, the applicant shall instead submit an explanation as to why this is the case.

(2) Evidence that the applicant's long range plan has been considered in the development of the proposal, request or submission and evidence documenting the consistency of the proposal, request or submission with the long range plan. The applicant shall cite specific goals and objectives of the plan that relate to the proposal, request or submission and explain how the completion of the proposal, request or submission would help to achieve these goals and objectives. In instances in which the applicant's proposal, request or submission appears to contradict its long range plan's goals or objectives, the applicant shall provide evidence of mitigating circumstances that would suggest that approval of the proposal, request or submission is nevertheless appropriate. If the applicant maintains that its proposal, request or submission does not relate to its long range plan, the applicant shall instead submit an explanation as to why this is the case.

(3) In instances in which financing of the project is proposed, evidence of alternative sources of financing and a justification of the financing alternative selected based upon the principles of sound financial management. In addition, the applicant shall identify increases in net patient revenue or patient rate authorizations in the short term, intermediate term and long term required to enable it to meet the capital costs and operating expenses of the proposal. The applicant shall provide detailed information, by payer category, regarding total and per-unit of service project-related operating expenses, total and per-unit gross revenues, and deductions from revenues associated with contractual allowances, bad debts, and free care. Furthermore the applicant shall provide historical and projected estimates of liquidity and debt

coverage. If the applicant maintains that the proposal does not relate to the issue of financial feasibility, the applicant shall instead submit an explanation as to why this is the case.

(4) Identification of increases in net patient revenue or patient rate authorization required to enable the applicant to continue to operate efficiently and effectively. The applicant shall provide historical, for at least two years, and projected, for at least three years, financial statements, including balance sheets, income statements, and statements of changes in financial position. If the applicant maintains that the proposal does not relate to its financial condition, the applicant shall instead submit an explanation as to why this is the case.

(5) Evidence regarding the impact of such proposal, request or submission on the interest of consumers of health care services and the payers of such services: In addition to the submissions required by subdivisions (6), (7), (8) and (18) of this subsection, identification and evidence as to the type and extent of any increase or decrease in costs for consumers or payers which may reasonably be expected within either the next three years or the first three years of operation, as appropriate. If the applicant maintains that the proposal does not impact on the interests of consumers of health care services and the payers for such services, the applicant shall instead submit an explanation as to why this is the case.

(6) Evidence regarding the expected impact of the proposal on population morbidity and mortality or patients' physical and psychological conditions. In addition, the applicant shall specify the expected impact of the proposal on the characteristics, such as patient volumes, and the quality of services presently provided by other entities whose service areas overlap with that of the applicant. If the applicant maintains that the proposal does not relate to the quality of health care delivery in the region, the applicant shall instead submit an explanation as to why this is the case.

(7) Specific evidence describing how regional accessibility to health care services will be enhanced as a result of the approval and completion of the proposal. Accessibility includes accessibility to medically under-served individuals who often experience the greatest difficulty in obtaining equitable access to health services. If the applicant maintains that the proposal does not relate to the accessibility of health care delivery in the region, the applicant shall instead submit an explanation as to why this is the case.

(8) Studies documenting the results of implementing similar proposals at other facilities, agencies, or institutions, if available. The applicant shall provide evidence of its consideration of alternatives to the project proposed, and justification for the project rather than less costly alternatives. The applicant shall also provide evidence of competitive bidding for the proposal if appropriate, and evidence that the costs of the project are not excessive in relation to the costs of similar proposals. If the applicant maintains that the proposal does not relate to the cost effectiveness of health care delivery in the region, the applicant shall instead submit an explanation as to why this is the case.

(9) Specific evidence of a clear public need in addition to subdivisions (6) and (7) of this subsection, shall include the following information and justification for any choices made:

(A) The service area or areas, actual, historical and proposed;

(B) The service area population, actual and projected;

(C) The incidence and prevalence of the medical condition or conditions to be treated in the service area;

(D) The effects of the medical treatments or services on the community, both the general community and the targeted community;

(E) The demand for the service or services, by whom and within what service area and context;

(F) The applicant's market share of the service area for both service-related and non-service-related services, actual and proposed;

(G) Other facilities' market share for service-related services;

(H) Whether there are other alternatives for meeting or addressing the claimed need within the service area and whether they are less or more costly;

(I) The treatment length of stay and recidivism rates of the medical condition or conditions to be treated.

(J) Specific evidence that a federal, state or local health planning body or court or a health care facility accreditation body, acting in its official capacity, has determined that a public need does or does not exist for the service in general and the application in particular and that the request or proposal will or will not meet part or all of that need.

(K) In addition to subparagraphs (A) to (J), inclusive, of this subdivision and subdivisions (1) to (8), inclusive, of this subsection, an applicant shall submit a statement under penalty of false statement, that the submission contains true copies of all evidence known to the applicant or his representatives at the time of submission. Concerning any federal, state, local or private regulatory body findings, e.g. water, zoning, etc. and any final court decision, there shall be a continuing duty to inform the presiding officer or the commissioner or his designee of any such determination of which the applicant becomes aware up to the time of the final decision. If the record of the proceeding has already been closed, the party shall also request, in writing, that the record be reopened to consider this new evidence and any related information.

(L) Any other information which the commissioner, his designee or presiding officer determines is relevant.

(M) If the applicant maintains that the proposal or request does not relate to a clear public need or that any of the information required in subdivisions (1) to (8), inclusive, of this subsection and subparagraphs (A) to (L), inclusive, of this subdivision is not appropriate for consideration with this application, the applicant shall instead submit an explanation as to why this is the case.

(10) Specific evidence concerning the experience and training of the applicant's or facility's management and staff that:

(A) demonstrates a high degree of skill or knowledge in their technical areas of responsibility including membership in professional associations and compliance with their standards;

(B) demonstrates that it has employed and maintained both on staff and under contract, sufficient persons with a high degree of financial skill, training and knowledge to provide ongoing financial oversight and control in all areas; and

(C) demonstrates that it has employed and maintained sufficient persons with a high degree of managerial skill, training and knowledge to provide ongoing managerial oversight and control in all areas.

(D) If a facility or applicant has not yet opened, evidence that it intends to employ persons who demonstrate the skill, training and knowledge listed in subparagraphs (A), (B), and (C) of this subdivision shall be provided.

(E) If the applicant maintains that its competency and efficiency is not related to its proposal, the applicant shall instead submit an explanation as to why this is the case.

(11) Specific evidence concerning the existence and implementation of training programs for management and staff. If the applicant maintains that the professional and technical expertise and training of its staff do not relate to its proposal, the applicant shall instead submit an explanation as to why this is the case.

(12) Specific financial evidence to demonstrate that the facility or applicant has operated at or below all of its rate and budget authorizations for the current and two most recently completed fiscal years. A facility or applicant shall also indicate whether it has developed and implemented programs which have produced a reduction in facility or applicant expenses as a result of improved efficiencies. For purposes of this principle and guideline, significant savings from improved efficiencies may mitigate a prior failure to comply with a budget or rate authorization. If a facility or applicant is new then subdivision (14) of this subsection shall apply. If the applicant maintains that it is not financially efficient and expert, the applicant shall instead submit an explanation as to why this is the case.

(13) Evidence concerning the number of management persons and positions, the number of staff persons and positions, and the total cost of all managerial and staff salaries, fringe benefits and any other benefits conferred, any evidence the facility or applicant has concerning average management cost and staff costs for similar facilities. If a facility or applicant does not claim to be managerially efficient or that its managerial competency and efficiency is not related to its proposal, request or submission, the applicant shall instead submit an explanation as to why this is the case.

(14) Specific evidence to demonstrate that the proposed facility's or applicant's rates and reimbursement under the proposal, request or submission pending before the Office will be sufficient to cover all reasonable capital and operating costs; and that such proposed rates are in conformance with any other state or federal formulae or procedures for establishing such rates. A facility or applicant may also request the Office to consider other forms of income such as grants or income from related entities in determining the sufficiency of proposed rates.

(15) Historical utilization data for at least two years, and projected utilization data for at least three years. Data provided should be segregated according to inpatient and outpatient volumes and according to other categories appropriate to the nature of the project. In instances in which the applicant proposes increases in service utilization over current levels, the applicant shall provide specific evidence that alternatives to increased utilization, such as the redirection of patients to other facilities, have been considered and implemented to the greatest degree possible. If the applicant maintains that the proposal does not relate to its current utilization statistics, the applicant shall instead submit an explanation as to why this is the case.

(16) Specific evidence concerning how the applicant's teaching and research responsibilities directly impinge upon the proposal itself. Such information shall specify the costs and benefits of these activities. If the applicant maintains that teaching and research responsibilities do not relate to its proposal, the applicant shall instead submit an explanation as to why this is the case.

(17) In instances in which the applicant maintains that its patient-physician mix is relevant to the proposal under consideration, evidence demonstrating that its patient-physician mix is appreciably different from those of other entities. In addition, the applicant shall submit evidence demonstrating that differences between patient-physician mix of the applicant and other entities are responsible for affecting its costs or program requirements to the degree proposed. If the applicant maintains that its patient-physician mix is not related to its proposal, the applicant shall instead submit an explanation as to why this is the case.

(18) Voluntary efforts to improve productivity — evidence that, insofar as the applicant's operations are concerned, decreases in direct costs, or the avoidance of costs, have taken place, or will take place, without reductions in essential services, or that increases in services have taken place, or will take place, without increases in direct costs. With regard to efforts to contain costs, the applicant shall provide evidence concerning the level of cost savings. In addition, the facility or applicant shall provide evidence concerning how its voluntary efforts impinge upon the proposal under consideration. If the applicant maintains that voluntary efforts to improve productivity and contain costs do not relate to the proposal, the applicant shall instead submit an explanation as to why this is the case.

(d) **Additional evidence submitted.** The enumeration of required items set forth as the minimum evidentiary submission in sections 19a-643-72 to 19a-643-74, inclusive, of the Regulations of Connecticut State Agencies, shall not preclude the submission of additional evidence with the petition or application.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-72. Original records

The petitioner or applicant shall furnish and make available for the use of the Office at the health care facility or institution or person regulated by the Office the original books, papers and documents from which any evidence supporting the granting of the petition or application is derived. If so directed, certified or verified copies shall be furnished in lieu of such original records. Failure to furnish records as directed may be ground for rejecting any component and, if appropriate, for the entry of decision denying the petition or application.

(Effective August 23, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-73. Fees

All application fees or other charges required by law shall be paid to the Office at the time that the application or request is filed with the Office unless provided otherwise in sections 19a-643-1 to 19a-643-115, inclusive of the Regulations of Connecticut State Agencies.

(Effective August 23, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-74. Date of filing, components, deficiencies

The date of filing of any application or required submission with the Office under chapter 368z of the Connecticut General Statutes, and any public or special act, such as but not limited to sections 2, 5, 6 and 8 of public act 97-188, shall be the OHCA business day that the application or submission is received by the Office or by its designated agent in accordance with section 19a-643-29 of the Regulations of Connecticut State Agencies.

(a) An application shall consist of all the required components and any special components set forth in the regulations of the Office of Health Care Access.

(b) All deficiencies in any filed petition or application to the Office shall be brought to the attention of the petitioner or applicant in a written communication mailed to the petitioner or applicant not later than ten (10) business days after receipt of the petition or application at the office and the application or petition shall be no longer before the Office.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-75. Notification of the status of reviews, monthly status reports

If requested, the Office shall inform interested persons of the status of a review. A monthly project status report shall be available at the office, identifying and

describing projects presently undergoing review, expected hearing date, if any, and other pertinent related information.

(Effective December 17, 1984; transferred and amended, February 26, 1999)

Secs. 19a-643-76—19a-643-77. Reserved

Part 2: Review of Capital Expenditure, Additional Function or Additional Service Proposals

Sec. 19a-643-78. General rule

Sections 19a-643-79 to 19a-643-89, inclusive, of the Regulations of Connecticut State Agencies, apply to all proceedings involving the review of capital expenditures, additional function and service, termination of service and any other proposals of any hospital, health care facility or institution or person, state or private, regulated by section 19a-638, 19a-639, or both, of the Connecticut General Statutes.

(Effective August 23, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-79. Letters of intent

(a) Each applicant prior to submitting a certificate of need application, shall request in writing, application forms and instructions from the Office. This request shall be known as a letter of intent and shall briefly describe the proposed project. Each letter of intent shall also contain:

(1) The full legal name of the applicant or applicants including any ''also known as'' ''(a.k.a.)'' or any ''doing business as'' ''(d.b.a.)'' names or both. If an applicant is owned by another entity or entities, all parent entities of any type shall also be fully listed.

(2) The town where a project is or will be located, including the street address, if known, and the full mailing address for each entity listed in (1) of this subsection.

(3) A statement describing whether the application is for a new, replacement or additional facility, institution, service or function, the expansion or relocation of an existing facility, institution, service or function, a change in ownership or control, a termination of a service or a reduction in licensed bed capacity and the bed type, any new or additional beds, and their type, a capital expenditure over one million dollars, the acquisition of major medical equipment, imaging equipment or a linear accelerator costing over four hundred thousand dollars or any combination thereof and any other circumstance subject to section 19a-638, 19a-639, or both, of the Connecticut General Statutes;

(4) the estimated capital cost, value and expenditure;

(5) the anticipated submission date of the application and the proposed starting or effective date of the project or change; and

(6) the name and address, telephone number, facsimile machine telephone number and electronic mail address, if any, of the sender and, if an out-of-state entity, of any Connecticut agent or representative, in accordance with section 19a-643-30 of the Regulations of Connecticut State Agencies.

(b) Each certificate of need application shall be considered submitted to the office if it is received after a current letter of intent, specific to the proposal has been on file with the Office at least sixty (60) days or an exception to the letter of intent provision is applicable. A current letter of intent will expire after one hundred twenty (120) days unless a one time extension up to an additional thirty (30) days has been granted in accordance with subdivision 19a-638(a)(4) or subsection 19a-639(b), or both, of the Connecticut General Statutes.

(c) A request for an OHCA determination of whether a certificate of need is required for a project, which request contains all of the information required by this section for a letter of intent, may be deemed by OHCA to be the simultaneous filing of a letter of intent for that project should a certificate of need be determined to be required.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-80. Applications

Each applicant under section 19a-638, of the Connecticut General Statutes for authority to undertake an additional function or service into its program of health care, or to implement, or terminate a facility, institution, service or activity regulated under that section, and each applicant under section 19a-639 of the Connecticut General Statutes for authority to undertake a capital expenditure, for authority to undertake the acquisition of major medical equipment or for authority to undertake the acquisition of imaging equipment or a linear accelerator, which regulated activity has a cost exceeding each amount specified in section 19a-639 of the Connecticut General Statutes, or each applicant under both sections 19a-638 and 19a-639 of the Connecticut General Statutes, shall submit an application by completing, in writing, any application form or forms that the Office shall direct the applicant to execute for this purpose. As a part of that written application the applicant shall also file all of the detailed supporting information, data, records, studies and evaluations that the Office directs the applicant to include in the application. Such direction may consist of written instructions incorporated as part of the application form supplied by the Office. Such direction may also consist of written directions transmitted by the Office to the applicant either before or after the filing of the completed application form.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-81. Expedited review application submissions

Applicants requesting expedited review of certificate of need applications under section 19a-643-94 of the Regulations of Connecticut State Agencies, for capital expenditures to comply with any federal, state or local health, fire, building or life safety codes as defined in section 19a-643-95(2) of the Regulations of Connecticut State Agencies, or final court order may submit their applications at any time, provided that the Office has previously determined, in writing, the application's eligibility for an expedited review submission pursuant to section 19a-643-96(b) of the Regulations of Connecticut State Agencies.

(Effective December 22, 1992; transferred and amended, February 26, 1999)

Sec. 19a-643-82. Certificate of need (CON) filing fees

(a) Standard filing fee schedule for all certificate of need applicants in accordance with section 19a-643(c) of the Connecticut General Statutes.

(1) There shall be no filing fee for each CON application under section 19a-638 of the Connecticut General Statutes only or for each CON application to modify a decision granted under section 19a-638 of the Connecticut General Statutes only.

(2) The standard filing fee for each CON application for a capital expenditure, major medical or imaging equipment or a linear accelerator costing over one million dollars ($1,000,000) under section 19a-639 of the Connecticut General Statutes only, or a capital expenditure or such an equipment acquisition under both sections 19a-638 and 19a-639 of the Connecticut General Statutes, shall be the sum of:

(A) one thousand dollars ($1000) and

(B) an additional fee equal to .05% of the total requested capital expenditure for the project (the capital expenditure times .0005).

(3) There shall be no filing fee for each CON application to modify an Office decision issued under section 19a-639 only, of the Connecticut General Statutes, or UNDER both sections 19a-638 and 19a-639 of the Connecticut General Statutes, if the modification request or if the modification request aggregated with other modification requests for the same project which have not paid a fee, total less than one hundred thousand dollars ($100,000) in value.

(4) If the total or aggregated modification request is valued at one hundred thousand dollars ($100,000) or more and less than or equal to one million dollars ($1,000,000), the filing fee shall be five hundred dollars ($500).

(5) If the total or aggregated modification request for a capital expenditure is valued at more than one million dollars ($1,000,000), the filing fee shall be the sum of:

(A) one thousand dollars ($1000) and

(B) an additional fee equal to .05% of the total requested incremental increase in the total capital expenditure for the project, if any (the incremental amount times .0005).

(6) The standard filing fee for each CON application for major medical equipment under section 19a-639 of the Connecticut General Statutes, or imaging equipment or a linear accelerator under section 19a-639 of the Connecticut General Statutes, which is not subject to subdivision (2) of this subsection, (that is, this subdivision applies to equipment costing more than four hundred thousand dollars ($400,000) but less than or equal to one million dollars ($1,000,000), shall be four hundred dollars ($400), whether or not it is also an application under section 19a-638 of the Connecticut General Statutes.

(7) For purposes of calculating the filing fee, the total project capital expenditure determined in accordance with section 19a-643-10(13) of the Regulations of Connecticut State Agencies, shall include the cost of any proposed capitalized financing.

(8) The filing fee may accompany a certificate of need application or, at the applicant's request, may be computed at the close of the OHCA completeness review period when an application is declared otherwise complete. Upon notification that an application is otherwise complete, an applicant shall have five (5) business days from the date of such notification by the Office to submit the fee in full. The fee shall be in the form of a certified or cashier's check, unless the commissioner or his designee expressly permits otherwise, payable to the Treasurer, State of Connecticut. The filing fee for any state agency project may at the requesting agency's discretion be in the form of a transfer invoice made payable to the Treasurer's Office or be in the form of a check payable to the Treasurer, State of Connecticut. Failure to submit the required filing fee in full, within the five (5) business days after notification that an application is otherwise complete and the amount of the calculation of the fee, shall result in rejection of the total application as incomplete. A new application may then be filed only if a current letter of intent is on file. The review period shall commence only after a current, complete application, including filing fee, has been received by the Office.

(9) If the applicant chooses to compute the filing fee and submit the fee with the application prior to the completeness determination by the Office, the applicant shall upon written notification by the Office of a shortfall in the amount of the filing fee paid at the time of the application's submission, have five (5) business days from the date of receipt of said notification to pay the balance in full to the

Office in accordance with this subsection. Failure to pay the balance in full to the Office within five (5) business days of the written notice, shall be deemed a failure to file a complete application. All filing fees shall be non-refundable.

(10) Once an application is declared complete by the Office, it may be amended or revised only with the prior approval of the commissioner or his designee and the submission of any incremental filing fee, if appropriate. If the agency determines that a proposed submission or modification would significantly change a pending application and OHCA is willing to accept the proposed submission or modification, acceptance of a proposed significantly changed submission or modification shall be contingent on the applicant's withdrawl of the original application and acceptance, in writing, of a new 90 day review period. Any new review period shall begin on a date determined by OHCA, after receipt of the applicant's written withdrawal and agreement to a new 90 day review period, a complete submission or modification request and OHCA approval of the requested change.

(b) **Resubmission fee and fee credit.**

(1) The filing fee for resubmitting a CON application shall be the standard filing fee established in subsection (a) of this section.

(2) Notwithstanding subdivision (1) of this subsection, an applicant may claim a resubmission fee credit of the full amount of the original filing fee if the applicant withdrew the original application after receipt of a written request from the office asking that the application be withdrawn and

(A) The applicant had filed an application and paid a filing fee in accordance with subsection (a) of this section;

(B) The resubmission for which the credit is being claimed is being filed within six (6) months of the withdrawal date; and

(C) The resubmission is substantially the same application for which the original fee was paid, that is, the scope of the project has not significantly changed, the cost of the project has not increased by more than ten percent (10%) and no new significant element has been added to the application.

(c) Fees for incorrect filing fee computation or payment; filing fee for requested changes to an application after the CON review has begun.

(1) If after a CON application has been submitted, the filing fee paid and the CON review begun, the Office determines that a mistake has been made in the computation of the amount of the fee paid which has resulted in the paying of less than the proper amount, the Office shall notify the applicant of the error and the amount of the underpayment by certified mail within five (5) business days of discovering the underpayment. The applicant will have ten (10) business days in which to deliver to OHCA at its office:

(A) payment of the full amount of the underpayment assessment by certified or cashier's check; or

(B) written argument and evidence that the Office underpayment assessment calculation is not correct. If the applicant elects to submit evidence, the Office shall review the evidence and make a final determination within fifteen (15) business days. The decision of the commissioner or his designee shall be final. The applicant will then have ten (10) business days from receipt of the final fee determination to pay any underpayment and assessment or the application will be deemed incomplete and no longer before the Office.

(2) The amount of any assessment for an underpayment of a fee calculated by the Office or improperly calculated by an applicant shall be the greater of $50 or twice the amount of the fee underpayment. Any underpayment which is the direct

result of an OHCA miscalculation of the original filing fee amount, shall not result in any additional fee or assessment to the applicant other than the actual underpayment amount, so long as the correct amount is received in full by the office within ten (10) business days of notification. There shall be no refund for a fee overpayment.

(d) This fee schedule shall be effective on the first day of the month following the effective date of this regulation or on the first day of the month following any amendment to the fee schedule in this section.

(Effective December 22, 1992; transferred and amended, February 26, 1999)

Sec. 19a-643-83. Special components for applications under sections 19a-638 and 19a-639 of the Connecticut General Statutes

The filing of an application under sections 19a-638 and 19a-639 of the Connecticut General Statutes, shall include as part of the application in addition to the components described in sections 19a-643-29 to 19a-643-82, inclusive, of the Regulations of Connecticut State Agencies, the following data, either in the written statement of the application or as exhibits annexed thereto and accompanying the application at the time it is filed:

(1) The proposed date of institution of the function or service and a statement of application as described in section 19a-643-71 of the Regulations of Connecticut State Agencies;

(2) Identification of the nature of the hospital, health care facility or institution or person and the type or classification of the services that the applicant offers at the time of the application;

(3) Identification of the area that the applicant presently serves and the area that the applicant will serve with the proposed service or function;

(4) The availability of the proposed service or function at other health care facilities or institutions or persons within the area to be served by the applicant;

(5) The need for such service or function within the area to be served by the applicant;

(6) A statement of applicant's income from all sources and all of the applicant's expenses during the twenty-four (24) months prior to the date of filing the application and as anticipated over the twelve (12) months succeeding the date of filing the application, all as adjusted and supported by competent evidence and excluding estimates based on speculative or conjectural data;

(7) A representation concerning the effectiveness and quality of the applicant's delivery of health care services and the effectiveness and quality of the delivery of health care services in the area to be served by the applicant, including the number and nature of other hospitals, health care facilities or institutions and persons similar to the applicant in that area; and

(8) A representation concerning the duplication of health care services in the area to be served by the applicant, including the accessibility of such service and function as the applicant proposes to offer in neighboring or adjacent areas.

(Effective August 23, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-84. Criteria of review

In reviewing any application filed under section 19a-638 or 19a-639, or both, of the Connecticut General Statutes, and in considering any evidence offered in any hearing on the approval of such application, regardless of the circumstances under which the hearing shall be initiated, the Office will follow the criteria prescribed

in section 19a-637 of the Connecticut General Statutes, in determining whether to approve, modify or deny that application.

(Effective December 17, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-85. Proposed introduction into health care program of an additional function or service, termination of service or substantial reduction in bed capacity

(a) **Scope.** The regulations set forth in this section shall govern any hospital, health care facility or institution that proposes to introduce any additional function or service into its program of health care, or to terminate a health service or to substantially reduce its total bed capacity from its program of health care as provided by section 19a-638 of the Connecticut General Statutes.

(b) **Approval of application.**

(1) If the Office approves the application within ninety (90) days or within one hundred five (105) days if an extension has been granted after a request for additional information or within one hundred twenty (120) days if a thirty (30) day extension has been ordered because the applicant has not filed in a timely manner, information deemed necessary by the Office or within one hundred thirty-five (135) days because a combination of extensions as described in this subdivision have been granted after the date the completed application was filed, it will notify the applicant in writing.

(2) The ninety-day review period pursuant to section 19a-638 of the Connecticut General Statutes, for an application filed by a hospital licensed as a short-term, acute-care general hospital or children's hospital by the Department of Public Health, or an affiliate of such a hospital or any combination of such hospital and one or more affiliates, shall not apply, if, in the certificate of need request or application, the hospital, affiliate, affiliates, applicant or a combination of them projects either:

(A) that for the first three years of operation taken together, the total impact of the proposal on the operating budget of the hospital or hospital affiliate or affiliates or any combination thereof, will exceed one per cent of the actual operating expenses of the hospital for the most recently completed fiscal year as filed with or determined by the Office, or

(B) that the total capital expenditure for the project will exceed fifteen million dollars ($15,000,000).

(3) If the office determines that an application is not subject to the ninety-day review period pursuant to this subsection or subsection 19a-643-86(c) of the Regulations of Connecticut State Agencies, or both, the application shall remain so excluded for the entire review period of the application, even if the application or circumstances change and the application no longer qualifies for the exclusion.

(4) The Office's failure to act on the application within ninety (90) or one hundred five (105) or one hundred twenty (120) or within one hundred thirty-five (135) days depending on any authorized extension or extensions after the date the completed application is filed is deemed approval thereof by operation of section 19a-638 of the Connecticut General Statutes.

(c) **Denial of application.** If the Office denies the application under section 19a-638 of the Connecticut General Statutes within ninety (90) or one hundred five (105) or one hundred twenty (120) or one hundred thirty-five (135) days depending on any authorized extension or extensions after the date the completed application was filed, it will notify the applicant in writing. If no hearing has been held and no waiver of hearing under section 19a-639 of the Connecticut General Statutes had been granted on the application, the applicant will then be entitled to a public

hearing that will comply with the provisions of the regulations of the Office of Health Care Access and chapter 54 of the Connecticut General Statutes.

(1) Securing hearing. The applicant will be entitled to a public hearing if it files with the Office a written request for a hearing within fourteen (14) days from the date that the notice of denial of the application is issued by the Office. Failure to file a timely written request for a hearing will constitute waiver of the applicant's right to a hearing.

(2) Public hearing notice. Notice of the time, place, and all other directions of the Office concerning the hearing will be given to the applicant, to any parties and to the public at least two weeks prior to the date when such hearing commences. Written notices shall be given to the applicant and to any parties by registered or certified mail or facsimile machine. Notice shall be given to the public by publication in a newspaper having circulation in the area to be served by the health care facility or institution. Such notice shall in all other respects be given as provided in section 19a-643-48 of the Regulations of Connecticut State Agencies.

(3) Appeal. The Office's decision thereon shall be subject to the provisions for appeal set out in section 19a-641 of the Connecticut General Statutes.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-86. Proposed capital expenditure or equipment acquisition

(a) **Scope.** The regulations set forth in this section shall govern any hospital, health care facility or institution that proposes to undertake a capital expenditure or acquire major medical equipment and any person that proposes to acquire imaging equipment or a linear accelerator, having a cost exceeding the amount specified in section 19a-639 of the Connecticut General Statutes, including the leasing or donation of equipment or a facility or institution, which expenditure was not included in a budget approved under section 19a-640 of the Connecticut General Statutes, as provided by section 19a-639 of the Connecticut General Statutes.

(b) **Date of filing.** The applicant must file a complete application not less than ninety (90) days prior to the date when it proposes to initiate the project described therein.

(c) **Approval of application.**

(1) If the Office approves the application within ninety (90) days or one hundred five (105) days if an extension has been granted after a request for additional information or within one hundred twenty (120) days if a thirty (30) day extension has been ordered because the applicant has not filed information deemed necessary in a timely manner, or within one hundred thirty-five (135) days, as applicable, because a combination of extensions as described in this subdivision have been granted after the date of filing, it will promptly notify the applicant in writing.

(2) The ninety-day review period pursuant to section 19a-639 of the Connecticut General Statutes, for an application filed by a hospital licensed as a short-term, acute-care general hospital or children's hospital by the Department of Public Health, or an affiliate of such a hospital or any combination of such hospital and one or more affiliates, shall not apply, if, in the certificate of need request or application, the hospital, affiliate, affiliates, applicant or a combination of them projects either:

(A) that for the first three years of operation taken together, the total impact of the proposal on the operating budget of the hospital or one or more hospital affiliates or any combination thereof, will exceed one per cent of the actual operating expenses of the hospital for the most recently completed fiscal year as filed with or determined by the Office, or

(B) that the total capital expenditure for the project will exceed fifteen million dollars ($15,000,000).

(3) If the Office determines that an application is not subject to the ninety-day review period pursuant to this subsection or subsection 19a-643-85(b) of the Regulations of Connecticut State Agencies, or both, the application shall remain so excluded for the entire review period of the application, even if the application or circumstances change and the application no longer qualifies for the exclusion.

(4) The Office's failure to act on the application within ninety (90) or one hundred five (105) or one hundred twenty (120) or within one hundred thirty-five (135) days depending on any authorized extension or extensions after the date of filing, is deemed approval thereof by operation of section 19a-639 of the Connecticut General Statutes.

(d) **Procedure for review of application.**

(1) If a request for a waiver of hearing has been made, the Office shall proceed in accordance with section 19a-643-45 of the Regulations of Connecticut State Agencies, to issue a ruling on the request. If a request for a waiver of hearing is denied, the Office shall then continue the review in accordance with sections 19a-643-1 to 19a-643-115, inclusive, of the Regulations of Connecticut State Agencies. When a hearing is scheduled after denial of a request for a waiver, the Office shall give at least two weeks' notice of a public hearing on the application as a contested case. Such notice will be given to the applicant and to any parties by registered or certified mail. Written notice shall be given to the public by publication in a newspaper having circulation in the area to be served by the health care facility or institution or person. Such notice shall in all other respects be given as provided in section 19a-643-33 and section 19a-643-48 of the Regulations of Connecticut State Agencies.

(2) The Office's decision shall be subject to the provisions for appeal set out in section 19a-641 of the Connecticut General Statutes.

(e) **Added criteria for review of application.** In addition to the principles and guidelines set forth in section 19a-637 of the Connecticut General Statutes, the Office shall consider such request in relation to the community or regional need for the proposed capital program, the possible effect of the proposed capital program on the operating costs of the applicant, and such other relevant factors as the Office deems necessary and appropriate to the application.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-87. Initial budget, initial rates and charges, general

(a) Subject to the provisions of section 19a-640 of the Connecticut General Statutes, every hospital and every other health care facility or institution shall file an initial budget and initial rates and charges as provided in this section. The provisions of subsection (c) of this section shall serve as the notice required by section 19a-640 of the Connecticut General Statutes, where applicable.

(b) The proposed adoption date of the initial budget and initial rates and charges shall be the date when the hospital, health care facility or institution proposes to commence the use or service or any equipment, to introduce into its program an additional function or service, or to admit any patient into the hospital, applicant, health care facility or institution subject to the Office's grant of authority under section 19a-638 or 19a-639, or both, of the Connecticut General Statutes.

(c) The initial budget and the initial rates and charges shall be submitted on any date subsequent to the granting of authority under section 19a-638 or 19a-639, or both, of the Connecticut General Statutes, but in no event earlier than one hundred

and eighty days nor later than ninety days prior to the proposed adoption date of the initial budget and initial rates and charges.

(d) In the event such an initial budget and initial rates and charges shall be submitted by a hospital or other health care facility or institution that has already submitted a budget for the current fiscal year, the initial budget shall take the form of a proposed revised budget as provided by section 19a-640 of the Connecticut General Statutes, and shall include the initial rates and charges as a part of the budget submission. For purposes of this section a revised budget shall consist of such revenue and expense data as required in support of the proposed initial rates.

(e) Any initial budget, and initial rates and charges other than a proposed revised budget submitted under section 19a-640 of the Connecticut General Statutes, shall govern the time period between the proposed adoption date and the end of the fiscal year and any subsequent years as may be ordered by the Office.

(f) **Initial budget, initial rates and charges, application for approval.** The application for approval of an initial budget and initial rates and charges shall be a rate application that will consist of the components hereinafter required. Where appropriate, the applicant will annex to the application such exhibits, pre-filed testimony and other evidence as shall be necessary to set forth in detail the evidence and arguments that support approval of the proposed initial budget and initial rates and charges.

(g) **Application components.** The following components must be included in the rate application:

(1) The proposed adoption date as the date on which the proposed initial budget and initial rates and charges shall become effective.

(2) Identification of the nature of the hospital, health care facility or institution filing and the type of classification of the services that the applicant offers. Where applicable, the initial budget shall state an identification of the added equipment, function, facility or institution that will be the subject of the initial budget, when approved.

(3) A statement of application, as described in section 19a-643-71 of the Regulations of Connecticut State Agencies. The statement of application will include a description of the class or classes of service that will be affected by the proposed initial budget and initial rates and charges.

(4) The operating and capital budget proposed as an initial budget for the period between the proposed adoption date and the end of the applicant's fiscal year. The operating budget will include the proposed initial rates and charges.

(5) Applicant's annual budget for a twelve month period encompassing the proposed adoption date and extending to the end of the applicant's fiscal year. By way of setting forth its financial condition with greater clarity, the applicant may submit an annual budget for a greater period than the prescribed twelve months, including a budgeted year at any existing rates and a budgeted year implementing the proposed initial budget and initial rates and charges.

(6) A balance sheet for the applicant's current fiscal year that will illustrate the effect of the expenditure for the added facilities, equipment, function, service or termination on the applicant's capital condition or position on the proposed adoption date.

(7) A schedule of any existing authorized rates and charges, categorized by rates and other appropriate classifications for the twelve month budget period that encompasses the proposed adoption date. Where applicable, this schedule will project such income and expenses as will illustrate a complete fiscal year at the current

approved rates and charges and also at the proposed initial rates and charges. The schedule will include income and expense adjustments that will set forth supporting details applicable to the accounts the applicant expects to be affected by the initial budget and initial rates and charges. The adjustments will be supported by competent evidence and shall not include any estimates based on speculative or conjectural data.

(h) **Procedure for approval of proposed initial budget and initial rates and charges.**

(1) The Office shall review the proposed initial budgets and initial rates and charges and notify the applicant of its approval, denial or modification not later than forty-five days before the proposed adoption date.

(2) If the Office denies or modifies a budget, it shall hold a hearing not later than thirty days before such proposed adoption date, subject to the provisions of Chapter 54 of the Connecticut General Statutes, unless an agreement has been reached between the facility or institution and the Office. The Office shall recommend an initial budget and initial rates and charges that it finds to be reasonable under the circumstances on the basis of the hearing record. If the hospital, health care facility or institution refuses to accept such initial budget and initial rate and charge recommendation, and if agreement has not been reached between the Office and the applicant at least fifteen days before the proposed adoption date of the initial budget and initial rates and charges, then the Office shall order the applicant to adopt an initial budget and initial rates and charges which the Office finds to be acceptable under section 19a-637 of the Connecticut General Statutes, for implementation by the applicant for the time period between the adoption date and the end of the applicant's fiscal year and any subsequent years as may be ordered by the Office.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Secs. 19a-643-88—19a-643-89. Reserved

Part 3: Exemption or Waiver of Certificate of Need Review

Sec. 19a-643-90. Waiver of certificate of need review for year-2000 computer capability

(a) Pursuant to Public Act 98-150, prior to October 1, 2000, the Office of Health Care Access through its commissioner or his designee, may waive the requirements of section 19a-638 or 19a-639 or both, of the Connecticut General Statutes, and grant a certificate of need to any health care facility or institution or any state health care facility or institution for purchases necessary to achieve year-2000 computer capability. Said waiver shall be considered and approved, modified or denied in accordance with this section.

(b) An applicant shall be eligible for consideration of a waiver of certificate of need review and the granting of a certificate of need under this section based upon a demonstration that the proposed acquisition qualifies in any one of the following categories and that the related total aggregate cost for all acquisitions for all items permitted under each subdivision category does not exceed each category's aggregate statutory limit. The eligible categories and their respective cost limits are:

(1) Physical plant or nonmedical equipment or both with a total aggregate cost of less than three million dollars ($3,000,000);

(2) Computer diagnostic or therapeutic medical equipment components or medical equipment computer replacement units with year-2000 capability with a total aggregate cost for all equipment and components of less than two million dollars ($2,000,000);

(3) Computer hardware or software used for data collection or to interface between medical equipment and data equipment and the data equipment is to be used for medical records, data collection, data storage, business functions or other similar uses as part of an information system or project with a total aggregate cost of less than three million dollars ($3,000,000).

(c) Any request for a waiver of certificate of need review and for the granting of a certificate of need for costs permitted under this section shall be submitted at least twenty (20) business days before the proposed purchase date of the requested items.

(d) Each request for a certificate of need under this section shall contain:

(1) A list of the items whose acquisition is requested to be authorized by name, part, unit, vendor number and a brief description of the item. Each applicant shall be consistent in identifying same or similar items throughout a request and from one request to another.

(2) The price per unit, number of units and total price for all units of each item being requested.

(3) The name of the category under subsection (b) of this section, to which the item or group of items belongs.

(4) The total aggregate amount by category of the requested items;

(5) The total aggregate amount by category of all prior requests approved under this section with their approval date or dates, and the total aggregate amount by category of all other pending requests under this section and the date or dates of any other requests or submissions.

(e) The office may require copies of bids, supplier price lists or other documentation for any item whose unit price is greater than ten thousand dollars ($10,000) and any other information the office deems appropriate.

(f) For purposes of determining compliance with the total aggregate amount permitted under each subdivision of subsection (b) of this section, an entity that has received an exemption under this section shall inform OHCA of the actual cost of items authorized under this section if the total actual cost of all units approved under this section varies from the authorized amount by more than two per cent of the approved amount. In no case shall the limits of this section be exceeded, unless expressly permitted by statute.

(Adopted effective February 26, 1999)

Sec. 19a-643-91. Exemption from certificate of need review

(a) For the twelve (12) types of facilities listed in section 4 of Public Act 98-150 which are permitted to be exempted from certificate of need review, the Office shall require the reporting of the information required by subdivision 19a-638(a)(4) of the Connecticut General Statutes, for a Letter of Intent in accordance with section 19a-643-79(a) of the Regulations of Connecticut State Agencies. Such information shall be submitted to the office annually and at least ten (10) business days but no more than sixty (60) calendar days prior to commencing operations or changing, expanding, terminating or relocating any facility, institution or service as specified for each health care facility or institution, state health care facility or institution or person seeking or renewing an exemption under section 4 of Public Act 98-150.

(b) In creating or updating the registry of information required under section 4 of Public Act 98-150, for facilities, institutions or persons which may be exempt from certificate of need review requirements under section 19a-638 or 19a-639(a) or both, of the Connecticut General Statutes, the office may utilize licensure and registration data available from other state agencies. OHCA may accept a health care provider's certification that information from another state agency remains

accurate or a description of what has changed in lieu of the submission required in subsection (a) of this section.

(Adopted effective February 26, 1999)

Sec. 19a-643-92. Waiver of certificate of need review under section 5 of Public Act 98-150

(a) **General provisions.** Pursuant to section 5 of public Act 98-150, a nonprofit facility, institution or person may request an exemption from the requirements of section 19a-638 of the Connecticut General Statutes, or subsection (a) of section 19a-639 of the Connecticut General Statutes, or both, for a regulated activity, expenditure or acquisition under said section or subsection except for the termination of a service, facility or institution.

(b) **Qualification for exemption.**

(1) A nonprofit facility, institution or person shall provide the office with evidence of its nonprofit status acceptable to the office. If an entity is in the process of obtaining nonprofit status, any exemption order shall be conditioned on the entity's submitting to the office prior to any implementation of an exemption, acceptable proof of its nonprofit status.

(2) The total project capital expenditure, if any, shall not exceed one million dollars ($1,000,000). If during the implementation of any project exempted under this section, the facility, institution or person becomes aware that the total project cost may exceed one million dollars, it shall take all necessary steps to prevent the project from exceeding one million dollars ($1,000,000). If, for any reason, the project does exceed a cost of one million dollars ($1,000,000), the applicant shall immediately apply for a certificate of need for the entire project and the increased expenditure.

(c) **Request for exemption.** In addition to evidence documenting the requirements of subsection (b), of this section, each exemption application shall contain:

(1) The information specified in subsection (a) of section 19a-643-79 of the Regulations of Connecticut State Agencies;

(2) A copy of a duly certified, approved resolution of the Board of Directors or a similar body of the applicant, authorizing the submission of the application and designating one or more authorized representatives;

(3) A properly witnessed, sworn affidavit from the entity's chief executive officer affirming under pain of false statement, the truth of the information in the application.

(4) A letter from the commissioner, executive director, chairman or chief court administrator of a state agency or department providing:

(A) A statement that the agency has identified a specific need in the area of that agency's statutory authority, that the need continues to exist, in whole or in part and a brief description of what part of the identified, specific service need the request is intended to meet;

(B) A citation to that portion of any report, study or similar document which identifies or verifies the claimed need, gives a detailed description of the need and the date or dates of such document or documents; copies of such a document shall be provided to the office upon request;

(C) In the case of the relocation of services, a statement that the agency or department has determined that the needs of the area previously served will continue to be met in a better or satisfactory manner under the new project, and briefly explains how that will be accomplished and monitored;

(D) In the case of the transfer of all or part of the ownership or control of a facility or institution, an explanation as to how the agency has determined that the proposed change would be in the best interests of the state and patients or clients.

(E) The agency shall list, describe and make available upon request by the office, copies of any report relating to any investigation of the applicant or a related entity during the five previous years or which was considered when determining to support the request.

(F) A statement that the agency believes that the proposed activity will be cost-effective and well managed.

(d) **Approval or denial of exemption.**

(1) The office shall review the submitted information for completeness and notify the applicant of any deficiency or additional information it believes necessary to determine exemption eligibility.

(2) The office shall determine whether or not the identified specific service need is a current need;

(3) If all statutory criteria are satisfied, the commissioner or his designee may grant an exemption from the certificate of need process for part or all of any services, equipment or expenditures for a location found to be directly related to the need, project, location or any combination thereof, that the state agency or department has identified.

(4) If a request or project is denied an exemption under this section, an applicant may then proceed to apply for a certificate of need. The time from the submission of the complete request for exemption shall be counted towards the sixty (60) day letter of intent waiting period for a current letter of intent.

(e) **Revocation or modification of exemption.** The office may revoke or modify the scope of this exemption provided it proceeds in accordance with the provisions of subsection (c) of section 5 of Public Act 98-150.

(Adopted effective February 26, 1999)

Sec. 19a-643-93. Reserved

Part 4: Establishment of an Expedited Hearing Process for the Review of Certain Capital Expenditures

Sec. 19a-643-94. General rule

Pursuant to section 19a-639 of the Connecticut General Statutes, sections 19a-643-94 to 19a-643-97, inclusive, of the Regulations of Connecticut State Agencies, set forth an expedited hearing process to be followed in reviewing requests by any health care facility or institution for approval of a capital expenditure to establish an energy conservation program or to comply with requirements of any federal, state or local health, fire, building or life safety code or final court order. Sections 19a-643-94 to 19a-643-97, inclusive, of the Regulations of Connecticut State Agencies, also set forth an expedited hearing process to be followed in reviewing requests by any health care facility or institution for approval of a capital expenditure which the Office determines is non-substantive.

(Effective August 23, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-95. Definitions III

The definitions provided by section 19a-630 of the Connecticut General Statutes, and sections 19a-643-10 and 19a-643-11 of the Regulations of Connecticut State Agencies, shall govern the interpretation and application of sections 19a-643-94 to

19a-643-97, inclusive, of the Regulations of Connecticut State Agencies. In addition thereto, and except as otherwise required by the context:

(1) ''Energy conservation program'' means a program proposed to be instituted by any health care facility or institution in which a projected reduction in energy consumption or a cost saving is specifically identified and can reasonably be expected to be achieved as a result of the establishment of the proposed program and the pay back period for the capital expenditure is less than the remaining useful life of the building in which the program will be implemented;

(2) ''Federal, state and local health, fire, building or life safety code'' means an official written statement by a duly authorized unit of government or governmental official, or the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO), or its agent (to the extent that the action of the Joint Commission may affect the applicant's Medicare or Medicaid status), containing minimum standards of compliance to which health care facilities or institutions must adhere or face legal sanctions or penalties, including, but not limited to, denial or revocation of license or other authority to operate, denial or revocation of participation in Medicare, Medicaid or a similar entitlement program, refusal to issue a certificate of occupancy or issuance of an official citation or order by an appropriate governmental agency or governmental official which precludes continued operation or imposes other civil penalties; and

(3) ''Non-substantive'' means having no significant impact on facility or institution rates or patient charges and having no substantial impact on the delivery of health services by the applicant or in the applicant's service area provided that the proposal will not adversely affect the health care delivery system in terms of the criteria expressed in section 19a-637 of the Connecticut General Statutes.

(Effective December 17, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-96. Procedures for review

When an application is filed pursuant to this article and the applicant, in writing, requests that the expedited hearing process be employed:

(a) The commissioner shall consider the request or transmit copies of the application to a designee to consider.

(b) Within four (4) weeks after the date of receipt of the application, the commissioner or his designee referred to in subsection (a) of this section shall determine whether the application qualifies for expedited review as a request for approval of a capital expenditure to establish an energy conservation program or to comply with requirements of any federal, state or local health, fire, building or life safety code, final court order or as a request for approval of a non-substantive capital expenditure as defined by section 19a-643-95(3) of the Regulations of Connecticut State Agencies. If the commissioner or his designee determines that the application qualifies for expedited review, the commissioner or a designee shall thereafter hold a public hearing on the application. Such hearing may be held immediately, notice in accordance with section 19a-639 of the Connecticut General Statutes, and section 19a-643-48 of the Regulations of Connecticut State Agencies, having properly been given.

(c) At the public hearing, the Office staff shall make public a staff report.

(d) The presiding officer shall receive and consider any testimony or evidence offered by a person in accordance with sections 19a-643-36 to 19a-643-54, inclusive, of the Regulations of Connecticut State Agencies, shall make such findings of fact and conclusions of law as are necessary and shall prepare a report approving, modifying or denying the application.

(e) If the report prepared under subsection (d) of this section is a proposed final decision prepared by a presiding officer rather than a final decision, the commissioner or his designee shall act on the proposed decision within five business days after receiving the report and providing the applicant with an opportunity for any brief or oral arguments on the proposed final decision.

(f) In cases where the application is determined not to qualify for expedited review under this article, the application shall subsequently be reviewed in accordance with sections 19a-643-78 to 19a-643-86, inclusive, of the Regulations of Connecticut State Agencies.

(Effective December 22, 1992; transferred and amended, February 26, 1999)

Sec. 19a-643-97. Other provisions

All other provisions of the Office's rules of practice, contained in sections 19a-643-8 to 19a-643-89, inclusive, of the Regulations of Connecticut State Agencies, which are not inconsistent with sections 19a-643-94 to 19a-643-96, inclusive, of the Regulations of Connecticut State Agencies, shall apply to any expedited hearing process conducted under the provisions of sections 19a-643-94 to 19a-643-96, inclusive, of the Regulations of Connecticut State Agencies.

(Effective August 23, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-98. Reserved

Sec. 19a-643-99. Disclosure required under Chapter 368z of the Connecticut General Statutes

(a) As part of any proposal, request, submission or report required or submitted under chapter 368z of the Connecticut General Statutes, each facility, institution or person shall include the following information:

(1) The form of ownership of the facility's, institution's or person's operation, i.e. corporation, nonprofit corporation, professional corporation, limited liability corporation, partnership, general or limited partnership, joint venture, individual proprietorship, sole member of a nonstock corporation, municipal or other and specify same.

(2) Where parent company or entity and subsidiary relationships exist, submit an organization chart showing each parent company and all subsidiaries and other affiliates of each parent company. Also identify name, address, ownership interests, and business activities of any parent company and each subsidiary and other affiliate including whether such entity is not-for-profit or for profit.

(3) The names, addresses and business telephone numbers and terms of office of all owners, proprietors, partners, associates, incorporators, directors, sponsors and officers of each entity listed in (2) above.

(4) A narrative of how each affiliate has interacted with any other affiliate in the last two years, including a list and description of any shared facilities, personnel or ventures.

(5) The most recent annual financial report for each affiliate.

(6) A list of all financial dealings between affiliates which result in revenue or assets to the facility, institution or person or an affiliate including the value of any loans or transfer of resources from one affiliate to another and any conditions or restrictions or terms relating to same; a summary of any contracts between any two or more affiliates or any two or more affiliates and third parties. The list and summaries required under this subdivision shall account for the entire value of all transactions between facilities and their affiliates and among two or more of those

affiliates with or without third parties. Financial transactions between or among the same parties which total $10,000 or more for a fiscal year shall be listed or summarized separately, or both, as appropriate. Financial transactions which total less than $10,000 a fiscal year between or among the same parties may be grouped together under the title ''other.''

(7) Any other information concerning health care facilities and institutions and their affiliates which the Office, its commissioner or a presiding officer deem relevant to any matter before the Office.

(b) Any facility, institution or other applicant may seek a partial waiver of information required to be filed by an affiliate under subsection (a) of this section, by filing a waiver request at least thirty (30) days before such information is due. Accompanying such a request shall also be filed:

(1) A chart of organization showing all affiliates and lines of control and of interrelationships;

(2) The name, address, title and telephone number of the president or CEO of each affiliate, if applicable;

(3) A list of each affiliate for which a waiver of further informational filings, specifically what filing and when it is due, is sought;

(4) A statement signed under penalty of false statement by the CEO of the Connecticut health care facility, institution or other applicant for each affiliate listed in (3) above which states that the affiliate for which the waiver is sought:

(A) Does not direct or control the Connecticut facility, institution or applicant seeking the waiver;

(B) Does not do business with or share facilities, institutions, finances, personnel or services with the Connecticut health care facility or institution or applicant; and

(C) Is not located in Connecticut and does not do business in Connecticut; or

(D) An explanation of why the affiliate should be given a waiver of some or all of the filing requirements even though (A), (B), or (C) above do not apply. Such an explanation shall include details of the extent to which (A), (B) or (C) and any combination thereof do apply.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Secs. 19a-643-100—19a-643-101. Reserved

Part 5: Rate Regulation and Budget Review

Sec. 19a-643-102. General rule

The regulations in sections 19a-643-103 to 19a-643-110, inclusive of the Regulations of Connecticut State Agencies, apply to all proceedings involving the fixing of rates and charges for any and all services furnished by any hospital, health care facility or institution regulated as to rates by the Office under sections 19a-635, 19a-636 and 19a-640 of the Connecticut General Statutes.

(Effective August 23, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-103. Special components for rate applications

In addition to the requirements in sections 19a-643-1 to 19a-643-102, inclusive, of the Regulations of Connecticut State Agencies, each rate application shall contain the following data, either in the statement of application or as exhibits annexed thereto and accompanying the application.

(a) The date on which the proposed rate shall become effective.

(b) The class or classes of service that will be affected by the proposed rate.

(c) Statements of financial operations for the past two (2) fiscal years, the current year, and the budgeted year at the present and at the proposed rates.

(d) Schedule of existing rates in effect prior to the date of application showing actual revenues and numbers of patients and other users of the health care facility or institution, categorized by rates, by classification of patient and by other appropriate classifications for the periods covered by the current year and by the budgeted year. The schedule will show such revenues at the existing rates and budgeted at the proposed rates.

(e) Statement of the proposed increases or changes which will result in increases, which the applicant proposes to make effective. Such statement shall also set forth the proposed rate structure with reasonable clarity and with appropriate rate classifications, where applicable.

(f) Actual and budgeted expense adjustments with supporting detail set forth by the accounts affected. Such adjustments shall be supported by competent evidence.

(Effective August 23, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-104. Offers of proof

The applicant may file as prefiled testimony and as exhibits any data which it offers the Office as proof in further support for the proposed rate application. Such evidence shall not be incorporated in any of the prescribed components but shall be presented separately as annexed materials and received as offers of proof to the extent such evidence is relevant to applicant's case.

(Effective August 23, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-105. Applicable criteria

In reviewing proposed operating and capital expenditures budgets for facilities or institutions subject to or given notice under section 19a-640 of the Connecticut General Statutes, rate applications for increased rates and charges under sections 19a-635 and 19a-636 of the Connecticut General Statutes, and rate applications for initial rates and charges, the Office will follow the criteria of section 19a-637 of the Connecticut General Statutes, to determine whether to approve, deny, modify, or issue any order concerning any budget or any rate or charge proposed by the applicant. In conducting all hearings or other administrative proceedings authorized by statute in connection with budgets or rates and charges, the Office will follow chapter 54 of the Connecticut General Statutes, and the applicable provisions of the regulations of the Office of Health Care Access.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-106. Authorization of budgets and schedules of rates and charges

For the purposes of appeals under section 19a-641 of the Connecticut General Statutes, and enforcement proceedings under section 19a-642 of the Connecticut General Statutes, any form of authorization by the Office that a hospital, health care facility or institution may implement a budget under section 19a-640 of the Connecticut General Statutes, a schedule of increased rates or charges under section 19a-635 or 19a-636 of the Connecticut General Statutes, or any initial rate or charge is to be construed as a decision or order of this Office. Such authorization may take the form of the Office's express finding and order, the issuance by the Office of a notice of approval following review of an application where no hearing takes place, the failure of the Office to disapprove any proposed budget or rate or charge, or any other act or failure of the Office to act that by operation of any law or regulation

results in the authorization of revenues, or charges that are subject to regulation under the authority of the Office.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-107. Increases in rates or charges under authority of section 19a-635 of the Connecticut General Statutes

(a) **Scope.** A rate application shall be filed by a hospital, under section 19a-635 of the General Statutes, when the applicant proposes to place in effect an increase in its rates or charges other than an increase provided for in a budget approved or net revenue limits established under section 19a-640 of the Connecticut General Statutes, or section 19a-674 to section 19a-683, inclusive, of the Connecticut General Statutes, and when the hospital proposes to increase its per diem room rate or its rates or aggregate special charges per patient in an amount that would increase such rates and charges by more than six percent (6%) over a twelve (12) month period or ten percent (10%) over a twenty-four (24) month period. An increase is considered to be ''provided for'' in a budget, revenue limit or rate order under the cited sections, if the hospital implements rates as provided for under a net revenue limit or requests the increase under any of the listed sections and the Office approved, modified or denied the request or if the Office's decision is pending.

(b) **Date of filing.** A rate application. A rate application to be filed under authority of section 19a-635 of the Connecticut General Statutes, shall be filed not later than sixty (60) days prior to the date when the applicant proposes to place such increased rates and charges in effect.

(c) **Procedure for approval of rate application.** Within not less than ten (10) nor more than thirty (30) days of having received a complete rate application under section 19a-635 of the Connecticut General Statutes, the Office shall hold a public hearing, as a hearing de novo, on such proposed rates. The hearing will be a contested case under chapter 54 of the Connecticut General Statutes.

(1) At least one week prior to the commencement of such hearing the Office shall give notice of such public hearing to the applicant by certified mail and to the public by publication in a newspaper having a circulation in the area affected. Such notice shall in all other respects be given as provided in sections 19a-643-33 and 19a-643-48 of the Regulations of Connecticut State Agencies.

(2) The Office shall order the applicant to submit in addition to the rate application as filed such further information, data, records, studies and evaluations as the Office finds necessary to determine the need for the increase requested in the rate application. Such order will take into consideration those provisions of sections 19a-643-51 and 19a-643-52 of the Regulations of Connecticut State Agencies, that limit the direct case of the applicant and that require the applicant to produce records and file added exhibits and testimony.

(d) **Time limitations.** The presiding officer in any hearing under the authority of section 19a-635 of the Connecticut General Statutes, will take whatever measures are necessary to expedite the hearing in order to allow the Office a sufficient period of time to fulfill the requirements of due process under chapter 54 of the Connecticut General Statutes, and within the time limitations stated in section 19a-635 of the Connecticut General Statutes. For this purpose the presiding officer shall also note for the hearing record the dates when the Office orders any information, data, records, studies and evaluations to be filed by the applicant and the date when the applicant complies with such order. In the event that it shall be alleged that any such evidence is not within the applicant's possession or control, the presiding officer shall immediately make a finding concerning such allegation and the Office

shall then issue such further order under section 19a-633 of the Connecticut General Statutes, as is necessary to secure the production of evidence pertinent to its inquiry.

(e) Pending its final decision concerning the application, the Office shall enter such order consistent with section 19a-635 of the Connecticut General Statutes, as will be necessary to protect the public and the users of the applicant's hospital, health care facility or institution from the implementation of any rate or charge in excess of the applicant's existing schedule of rates and charges.

(f) The Office's decision shall be subject to the provision for appeal set out in section 19a-641 of the Connecticut General Statutes.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-108. Increases in rates or charges under authority of section 19a-636 of the Connecticut General Statutes

(a) **Scope.** A rate application shall be filed under section 19a-636 of the Connecticut General Statutes, by any health care facility or institution subject to subsection (a) of section 19a-635 of the Connecticut General Statutes, when that health care facility or institution proposes to place in effect an increase in its rates or charges other than an increase provided for in a budget approved or net revenue limits established under section 19a-640 of the Connecticut General Statutes, or sections 19a-674 to 19a-683, inclusive, of the Connecticut General Statutes, and when the hospital proposes to increase its per diem room rate or aggregate special charges in an amount that would be at least two percent (2%) but not exceeding six percent (6%) over a twelve (12) month period. An increase is considered to be ''provided for'' in a budget or rate order under the cited sections, if the hospital implements rates as provided under a net revenue limit or requests the increase under any of those sections and the Office approved, modified or denied the request or if the Office's decision is pending.

(b) **Date of filing.** A rate application to be filed under authority of section 19a-636 of the Connecticut General Statutes, shall be filed not later than sixty (60) days prior to the date when the applicant proposes to place such increased rate and charges in effect.

(c) **Procedure for approval of rate application.**

(1) Upon receipt of the rate application the Office will place consideration of the proposed rate increase on its schedule.

(2) Unless the Office issues a resolution approving the rate application, the Office shall hold a public hearing as a hearing de novo on such proposed rates within not more than four (4) weeks after having received the rate application under section 19a-636 of the Connecticut General Statutes. The hearing will be a contested case under chapter 54 of the Connecticut General Statutes.

(3) At least one week prior to commencement of such hearing the Office shall give notice of the public hearing to the applicant by certified mail and to the public by publication in a newspaper having a circulation in the area affected. Such notice shall in all other respects be given as provided in sections 19a-643-33 and 19a-643-48 of the Regulations of Connecticut State Agencies.

(4) The Office may order the production by the applicant of such records, papers and documents as shall be pertinent to the disposition of the rate application for the purpose of the hearing, as authorized by section 19a-633 of the Connecticut General Statutes. The presiding officer shall take whatever measures are necessary to expedite the hearing in order to allow the Office a sufficient period of time to fulfill the requirements of due process under chapter 54 of the Connecticut General Statutes, and within such time limitations as may be stated in section 19a-636 of

the Connecticut General Statutes. For this purpose the presiding officer shall note for the hearing record the dates when the Office orders the production of any records, papers, and documents by the applicant and the date when the applicant complies with such order. In the event it shall be alleged at the hearing that any such evidence is not within the applicant's possession or control, the presiding officer shall immediately make a finding concerning such allegation and the Office shall then issue such further order under section 19a-636 of the Connecticut General Statutes, as is necessary to secure the production of evidence pertinent to its inquiry.

(5) Within not more than four (4) weeks after the conclusion of the public hearing the Office shall issue its finding and order approving or disapproving the rate application.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Sec. 19a-643-109. Proposed operating and capital expenditures budget

(a) **Scope.** The regulations set forth in this section shall govern any health care facility or institution that is required by statute to comply with the provisions of section 19a-640 of the Connecticut General Statutes.

(b) **Date of filing.** Each health care facility or institution required to submit its proposed budget of operating and capital expenditures under section 19a-640 of the Connecticut General Statutes, shall file such proposed budget not less than ninety (90) days prior to the date when it proposes to adopt that proposed budget to control its rates, revenues, and expenditures. Unless otherwise provided by the Office, that date of such proposed adoption shall be the beginning of the fiscal year governed by the proposed budget.

(c) **Rate application.** The filing of the proposed operating and capital expenditure budget is a rate application, as defined by section 19a-643-11(3) of the Regulations of Connecticut State Agencies.

(d) **Special components for budget filing.** The filing of the proposed budget as a rate application shall include as special components the following data, either in the statement of the budget or as exhibits annexed thereto and accompanying the filing:

(1) The date on which the proposed budget shall become effective.

(2) Identification of the nature of the health care facility or institution filing and the type or classification of the services that said applicant offers.

(3) The operating and capital budget proposed for the next fiscal period of the applicant.

(4) The actual operating and capital expenditures and revenues for the two fiscal years preceding the current fiscal year of the applicant.

(5) The actual operating and capital expenditures and revenues for so much of the current fiscal year as extends up until the nearest feasible date to the date of the applicant's filing and a projection of actual operating and capital expenditures and revenues of the remaining period of the applicant's current fiscal year to present the entire current fiscal year as adjusted and supported by competent evidence.

(6) Statement of the alterations in operating and capital budget items that the applicant proposes to place in effect during the next fiscal period, including supporting detail set forth as to the account affected.

(7) Statement of increases or changes which will result in any increase in rates and charges that the applicant proposes to make effective upon adoption of the proposed budget for the next fiscal period. Such statement shall set forth the current and proposed schedules of rates and charges, the actual revenues received and projected for the current fiscal year in the category of services mentioned for each

rate or charge and the revenues projected for the next fiscal year that will be received for each category of service in the proposed fiscal year.

(8) Balance sheets as of the close of the two fiscal years preceding the applicant's current fiscal year.

(9) The balance sheet for the current fiscal year as of the end of the most recent quarter feasible prior to the date of filing.

(e) All of the components above listed shall be prepared and presented by the applicant in a form acceptable to the Office, setting forth the categorical expenditures and sources of revenues by this type of service, department, function and classification, including other revenues, expenses and deductions from gross revenues. All pertinent statistical data that the applicant deems necessary to support the approval of its proposed operating and capital expenditures budget shall be made a part of this rate application.

(f) In addition to the components of this rate application and by way of a further requirement, subsequent to the approval of the proposed operating and capital expenditures budget the applicant shall file with the Office a certified financial report bearing the certificate of an independent accountant licensed to practice as a public accountant or as a certified public accountant in the State of Connecticut. That certified financial report shall be filed on or before the February 28 following the close of the applicant's fiscal year, or in cases of fiscal years ending on a date other than September 30, not later than 90 days after the close of the fiscal period.

(Effective December 17, 1984; transferred and amended, February 26, 1999)

Sec. 19a-643-110. Ongoing inspection of budgets

The regulations set forth in this section will carry out the provisions of section 19a-643 of the Connecticut General Statutes, providing for the ongoing inspections by the Office of the operating budgets of every hospital, health care facility or institution subsequent to the Office's approval of operating budgets under section 19a-640 of the Connecticut General Statutes.

(a) The Office is authorized to prepare and distribute standard reporting forms, directions concerning the submission of data required for the ongoing inspections of operating budgets, and the standard accounting procedures required by regulations to be used in record keeping and reporting by hospitals, health facilities or institutions regulated under Chapter 368z of the Connecticut General Statutes.

(b) The Office may provide for the ongoing inspection of compliance by every hospital, health care facility or institution with such operating budget as the Office has approved under section 19a-640 of the Connecticut General Statutes, including but not limited to the expenditures and the rates and charges authorized by the approval of such budgets and the initial and adjusted rates and charges allowed under Chapter 368z of the Connecticut General Statutes.

(c) Each inspection conducted as an ongoing inspection under section 19a-643 of the Connecticut General Statutes, will be an Office investigation under section 19a-633 of the Connecticut General Statutes. The commissioner or his designee shall oversee the inspection as an investigation and inquiry under section 19a-633 of the Connecticut General Statutes. The commissioner or his designee shall be the presiding officer and shall convene any hearing necessary to complete the investigation.

(1) The inspection authorized hereunder shall include but shall not be limited to a review of any budget that has been approved by the Office in accordance with section 19a-640 of the Connecticut General Statutes, or a net revenue limit computed in accordance with section 19a-673 to 19a-683, inclusive, of the Connecticut General

Statutes, and the books of original entry and all other records used in the preparation of the budget or limit. The ongoing inspection shall further encompass the review and inspection of such books of original entry and other records of financial transactions as shall disclose all information necessary for the Office to audit the income and disbursements that have occurred under the authority of that budget or limit.

(2) Where feasible, the commissioner or his designee shall provide for the review and audit of records and data to be conducted on the premises of the hospital, health care facility or institution for the purpose of the ongoing inspection. In the event the commissioner or his designee deems it unsuitable to conduct the review and audit on such premises or in the event that it is found necessary to order a hearing and the delivery of such records and data under subpoena, the agency's review and audit shall be conducted at the office of the agency or at a site designated by the office.

(3) The commissioner, his designee or presiding officer will minimize the inconvenience that the ongoing inspection may cause by providing to the hospital, health care facility or institution an opportunity to furnish all of the requested records and data under conditions compatible with the needs of the staff assigned by the Office to perform the review and audit. If the records and data are not promptly provided upon such request or if the conditions under which the records and data are to be reviewed and audited are thereafter deemed unsuitable, then the commissioner, his designee or presiding officer shall institute appropriate investigative proceedings to provide for the facility's or institution's compliance with section 19a-643 of the Connecticut General Statutes.

(d) Upon termination of any inspection under section 19a-643 of the Connecticut General Statutes, appropriate action shall be taken to secure compliance with the approved budget subject to all rate increases, line item transfers, or other amendments and adjustments that have been authorized under Chapter 368z of the Connecticut General Statutes.

(Effective April 20, 1990; transferred and amended, February 26, 1999)

Secs. 19a-643-111—19a-643-199. Reserved

Hospital Financial Review

Sec. 19a-643-200. General purpose

Each hospital subject to Chapter 368z, including, but not limited, to sections 19a-613, 19a-637a, 19a-643, 19a-644, 19a-649, 19a-673c, 19a-676 and 19a-681 of the Connecticut General Statutes, shall be required to submit certain financial information and statistical data annually to the Office of Health Care Access for its review.

Nothing in sections 19a-643-200 through 19a-643-206, inclusive, shall be interpreted as preventing the office from reviewing any financial or statistical reporting requirement in carrying out its mandate under Connecticut laws.

(Transferred from § 19a-167g-51 and amended, effective November 1, 2007)

Sec. 19a-643-201. Definitions

(a) The definitions provided by section 19a-630, of the Connecticut General Statutes and sections 19a-643-10 and 19a-643-11 of the Regulations of Connecticut State Agencies, except as otherwise noted, shall govern the interpretation and application of sections 19a-643-200 to 19a-643-206, inclusive.

(b) The following definitions shall apply to the review by the office of all matters concerning hospital financial information or statistical data reporting requirements, as applicable:

(1) ''Affiliate'' means a person, entity or organization controlling, controlled by, or under common control with another person, entity or organization, including but

not limited to parent corporations, holding companies, related entities, joint ventures and partnerships. Factors to be considered include: common ownership of fifty or more percent; shared boards of directors; purpose; and whether an entity operates for the benefit of others. Control exists where an individual or organization has the power, directly or indirectly, to direct the actions or policy of an organization or entity. A person, entity or organization may be an affiliate for purposes of a particular project;

(2) ''Ambulatory payment classification'' or ''APC'' means the system of classifying outpatient department (OPD) services reimbursed under the Medicare program prospective payment system for hospital outpatient services as set forth in 42 USC 1833 (t) as from time to time amended;

(3) ''Bad debts'' means the year-end adjustment to a hospital's allowance for doubtful accounts due to the non-reimbursement of services rendered to patients from whom reimbursement was expected, resulting in the recording of bad debt expense. Bad debts exclude any financial activity not associated with patient accounts receivable;

(4) ''Base year'' means ''base year'' as defined in section 19a-659 of the Connecticut General Statutes;

(5) ''Board-designated funds'' means the unrestricted funds available for specific purposes or projects;

(6) ''Budget year'' means the twelve month fiscal period subsequent to the current year or base year beginning October 1st and ending the following September 30th. If John Dempsey Hospital of the University of Connecticut Health Center elects to operate and report on a state fiscal year basis, the budget year for that hospital shall be the twelve month period subsequent to the current year or base year beginning July 1st and ending the following June 30th;

(7) ''By'' means budget year;

(8) ''Capital expenditures'' means the expenditures for items which, at the time of acquisition have an estimated useful life of at least two years and a purchase price of at least $5,000. In addition, capital expenditures shall include expenditures of at least $10,000 for groups of related items with an expected life of more than two years, which are capitalized under generally accepted accounting principles. Such items shall include, but not be limited to, the following:

(A) Land, buildings, fixed equipment, major movable equipment and any attendant improvements thereto;

(B) The total cost of all studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion or replacement of plant or equipment or any combination thereof;

(C) Leased assets. The purchase price for leased assets shall be the fair market value of the leased assets at the time of lease as determined by the office;

(D) Maintenance expenditures capitalized in accordance with generally accepted accounting principles or provided for as part of any lease, lease purchase agreement, purchase contract, or similar or related agreement; and

(E) Donated Assets. Donations of property and equipment, which under generally accepted accounting principles are or would normally be capitalized at fair market value at the date of contribution if purchased rather than donated;

(9) ''Case mix'' means the average of inpatient cases, as differentiated by DRG, treated by a specific hospital during a given fiscal year;

(10) ''Case mix index'' means ''case mix index'' as defined in section 19a-659 of the Connecticut General Statutes;

(11) ''Champus or Tricare'' means ''Champus or Tricare'' as defined in section 19a-659 of the Connecticut General Statutes;

(12) ''Charity care'' means free or discounted health care services rendered by a hospital to persons who cannot afford to pay, including but not limited to, care to the uninsured patient or patients who are not expected to pay all or part of a hospital bill based on income guidelines and other financial criteria set forth in statute or in a hospital's charity care policies on file at the office. Bad debts, courtesy discounts, contractual allowances, self pay discounts, and charges for health care services provided to employees are not included under the definition of charity care;

(13) ''Contractual allowances'' means the difference between hospital published charges and payments generated by negotiated agreements for a different or discounted rate or method of payment. Charity care and bad debts are not included under the definition of contractual allowances;

(14) ''Cost center'' means an expense classification, which identifies the salary, non-salary and depreciation expenses of a specific department or function. In addition, cost centers may be established to identify specific categories of expense such as interest, malpractice, leases, building and building equipment depreciation;

(15) ''Current year'' means the fiscal year consisting of a twelve month period, which is presently underway and which precedes the budget year. Also referred to as the base year;

(16) ''CY'' means current year;

(17) ''Discharge'' means any patient who was discharged on a date subsequent to the date admitted to the hospital for treatment as an inpatient; except that it shall also mean such patient was admitted and discharged on the same day where such patient:

(A) Died; or

(B) Left against medical advice; or

(C) Was formally released from the hospital.

For purposes of this definition, patients transferred between an exempt unit and any non-exempt inpatient unit shall be considered discharged and readmitted;

(18) ''DRG'' means Diagnosis Related Group;

(19) ''Endowment funds'' means funds in which a donor has stipulated, as a condition of his or her gift, that the principal amount of the fund is to be maintained inviolate and in perpetuity, and that only income from investments of the fund may be expended;

(20) ''Equivalent discharges'' means the result of multiplying inpatient discharges times the ratio of total gross revenue to inpatient gross revenue;

(21) ''Exempt inpatient'' means a psychiatric inpatient or a rehabilitation inpatient treated in a unit meeting the criteria set forth in 42 CFR 412.22(e), as from time to time amended;

(22) ''Exempt Psychiatric Unit or Exempt Rehabilitation Unit'' means respectively, an inpatient psychiatric unit or an inpatient rehabilitation unit of a general hospital that has been determined by Medicare as meeting the criteria set forth in 42 CFR 412.22(e), as from time to time amended;

(23) ''Fiscal year'' means:

(A) For each acute care general and children's hospital, the fiscal year consisting of a twelve month period commencing on October 1st and ending the following September 30th; or

(B) For John Dempsey Hospital of the University of Connecticut Health Center, the hospital may elect to report on the basis of the hospital fiscal year defined in

subparagraph (a), or may elect to operate and report to the office based on the state fiscal year consisting of a twelve month period commencing July 1st and ending the following June 30th. If John Dempsey Hospital chooses to operate and report to the office on a state fiscal year basis, the hospital shall comply with the provisions of sections 19a-643-205 and 19a-643-206 of the Regulations of Connecticut State Agencies as a continuing condition for qualifying to select or maintain the option of operating and reporting on a state fiscal year basis;

(24) ''Funded depreciation'' means funds specifically set aside for the replacement of capital assets;

(25) ''FY'' means fiscal year;

(26) ''Government discharges'' means discharges for which the principal payer is Medicare including Medicare sponsored managed care organizations, medical assistance including Medicaid and medical assistance sponsored managed care organizations, and Champus or Tricare. A discharge will be classified as a government discharge, if Medicare, medical assistance including medicaid, Champus or Tricare is responsible for a majority of the cost of service rendered to the patient;

(27) ''Gross inpatient revenue'' means the total gross patient charges for hospital inpatient services consistent with medicare principles of reimbursement;

(28) ''Gross outpatient revenue'' means the total gross patient charges for hospital outpatient services consistent with medicare principles of reimbursement;

(29) ''Gross revenue'' means ''Gross revenue'' as defined in section 19a-659 of the Connecticut General Statutes;

(30) ''Health Insurance Portability and Accountability Act of 1996'' or ''HIPAA'' means Pub. L. 104-191 that, among other things, provides each person protections for maintaining health insurance when changing employment, coverage for pre-existing conditions, and confidentiality of patient medical records;

(31) ''Hospital'' means a health care facility or institution licensed by the Department of Public Health to provide both inpatient and outpatient services as one of the following:

(A) A general hospital licensed by the Department of Public Health, including John Dempsey Hospital of the University of Connecticut Health Center, as a short-term, acute care general or children's hospital; or

(B) a specialty hospital licensed by the Department of Public Health as a chronic disease hospital that provides inpatient psychiatric, rehabilitation or hospice services;

(32) ''Inpatient non-exempt'' means inpatients who are not patients in an exempt psychiatric unit or exempt rehabilitation unit;

(33) ''Managed care organization'' means a ''managed care organization'' as defined in section 38a-1040 of the Connecticut General Statutes, or an eligible organization as defined by Medicare in 42 USC 1395mm (b) as from time to time amended, and which can also include health maintenance organizations (HMOs) and preferred provider organizations (PPOs);

(34) ''Medicaid'' means the federal and state health insurance program established under Title XIX of the Social Security Act to provide medical assistance on behalf of families with dependent children and for aged, blind, or disabled individuals, whose income and resources are insufficient to meet the costs of necessary medical services, and which is administered by the Department of Social Services pursuant to Chapter 319v of the Connecticut General Statutes;

(35) ''Medical assistance'' means ''medical assistance'' as defined in section 19a-659 of the Connecticut General Statutes;

(36) ''Medical assistance underpayment'' means ''Medical assistance underpayment'' as defined in section 19a-659 of the Connecticut General Statutes;

(37) ''Medicare'' means the federal health insurance program provided for the aged and disabled in 42 USC 1395 through 42 USC 1995 ccc, inclusive, as from time to time amended;

(38) ''Medicare Cost Report'' means Form 2552, the provider reimbursement report, any successor form and all supplemental schedules and attachments required to be filed annually pursuant to 42 CFR 413.20 (b) as from time to time amended;

(39) ''Medicare principles of reimbursement'' means the reimbursement principles provided in 42 CFR 413, and unless cited as of a specific date, shall incorporate any subsequent amendments;

(40) ''Net revenue'' means ''net revenue'' as defined in section 19a-659 of the Connecticut General Statutes;

(41) ''Nongovernmental'' means any commercial or private payer and includes, but is not limited, to managed care organizations, health maintenance organizations (HMOs) and preferred provider organizations (PPOs);

(42) ''Non-operating revenue'' means unrestricted revenue not directly derived from patient care, related patient services, or the sale of related goods and services. Non-operating revenue is further classified as revenue derived from either philanthropic or non-philanthropic sources;

(43) ''Non-recurring items'' means items from a base year or budget year that are not expected to occur again in the next fiscal year;

(44) ''Office'' means the Office of Health Care Access;

(45) ''Operating expense'' means the expenses necessary to maintain the functions of the hospital including, but not limited to, any collection agency or debt collection expense;

(46) ''Other operating revenue'' means revenue from non-patient goods and services. Such revenue should be normal to the operation of a hospital but should be accounted for separately from patient revenues and includes, but is not limited to, the following: revenue from gifts, grants, parking fees, recovery of silver from x-ray film, fees from educational programs, rental of health care facility space, sales from hospital gift shops, cafeteria meals, subsidies specified by the donor for research, educational or other programs, revenues restricted by the donor or grantor for operating purposes, and net assets released from restrictions. Bad debt recoveries shall not be considered to be other operating revenue;

(47) ''Outlier'' means a medicare case for which a federal intermediary has issued an additional payment beyond the applicable federal prospective payment rate as prescribed by the medicare program;

(48) ''Outlier revenue'' means the total revenue received by a hospital during a reporting period for all types of Medicare outliers;

(49) ''Parent corporation'' means a corporate holding company or a hospital health system that controls through its governing body a hospital and the hospital's affiliates;

(50) ''Payer classifications'' means payers in the following categories:

(A) Nongovernmental: includes commercial and private payers;

(B) Champus or Tricare;

(C) Medicaid: includes medicaid contracted through medicaid managed care organizations;

(D) Medicare: includes medicare administered through designated fiscal intermediaries and carriers and medicare contracted through managed care organizations;

(E) Total medical assistance: includes medicaid and the state administered general assistance program contracted through general assistance managed care organizations;

(F) Other government payments: includes payments identified in 42 USC 701 through 42 USC 710, inclusive, as from time to time amended;

(G) Uninsured: includes individuals with no insurance; and

(H) Other;

(51) ''Payer mix'' means the proportionate share of itemized charges attributable to patients assignable to a specific payer classification to total itemized charges for all patients;

(52) ''Plant replacement and expansion funds'' means funds donated for renewal, expansion or replacement of existing plant or a portion of existing plant;

(53) ''Preferred provider organization (PPO)'' means a managed care organization, which provides health care coverage through leasing of contracts made with health care providers to insurers and employers for a fee, and which performs utilization review services;

(54) ''Related corporation'' means a corporation that is related to a hospital where the corporation is an affiliate or where the hospital has an ownership interest of ten per cent or more in the corporation or where the corporation has an ownership interest in the hospital of ten per cent or more;

(55) ''Restricted funds'' means funds temporarily or permanently restricted by donors for specific purposes. The term refers to specific purpose funds and endowment funds;

(56) ''Retained earnings'' means the portion of stockholders' equity that accounts for the increase or decrease in contributed or paid-in capital due to net income, net losses and dividends paid;

(57) ''Self-pay discount'' means the amount discounted by a hospital from its published charges for, including but not limited to, an uninsured or underinsured patient from whom reimbursement is expected, as determined by the patient not having met the income guidelines and other financial criteria from the hospital's charity care policies on file at the office;

(58) ''Specific purpose funds'' means funds restricted externally by a donor, or otherwise, for a specific purpose or project. Board-designated funds do not constitute specific purpose funds;

(59) ''Stockholders' equity'' means the claims of ownership equity in an entity also known as contributed or paid-in capital, and retained earnings;

(60) ''Temporarily restricted funds'' means donated funds which by the terms of the gift become available either for any purpose designated by the governing board or for a specific purpose designated by the donor upon the happening of an event or upon the passage of a stated period of time;

(61) ''Third party payer'' means a governmental agency, or, private nongovernmental entity that is liable by virtue of state or federal law or regulation or a contract to pay for all or a part of the cost of a patient's hospitalization or ambulatory services;

(62) ''Uncompensated care'' means ''Uncompensated care''as defined in section 19a-659 of the Connecticut General Statutes;

(63) ''Uninsured patient'' means a patient who is without health insurance for whom the payer responsible for payment of the bill for hospital services rendered is the patient, the patient's parent or guardian or another responsible person, who is not a third party payer and who is not subsequently reimbursed by another payer

for the cost of any of the services rendered to the patient. A patient shall not be classified as an uninsured patient, if such subsequent reimbursement takes place;

(64) ''Unrestricted funds'' means funds which bear no external restrictions as to use or purpose and which can be used for any purpose, as distinguished from funds restricted externally for specific operating purposes, for plant replacement and expansion, or designated as endowment funds;

(65) ''Volume'' means the quantity of specified inpatient or outpatient utilization statistics; and

(66) ''Working capital'' means current assets excluding funds committed for the retirement of long term debt, minus current liabilities excluding the current portion of long term debt. All amounts due to or from other funds, affiliates or related organizations may be considered as current assets or current liabilities. The current portion of long term debt is excluded from this definition because it is treated separately in reviewing financial requirements.

(Transferred from § 19a-167g-55 and amended, effective November 1, 2007)

Sec. 19a-643-202. Consistency

Unless otherwise specified, all financial information and statistical data submitted to the office in compliance with sections 19a-643-200 through 19a-643-206, inclusive, of the Regulations of Connecticut State Agencies shall be prepared in accordance with the following principles:

(a) ''Consistency'' means continued uniformity of reporting during a reporting period and from one reporting period to another in methods of accounting, valuation bases, methods of accrual and deferral, and statistical units of measure such as diagnosis related group relative weights. Any change in accounting procedures other than to comply with the filing requirements as prescribed by the office, which results in a lack of consistency and which is material in nature, must be brought to the attention of the office in a cover letter which will accompany the hospital's submission. The cover letter shall include both a description and analysis of the impact that such accounting change has on the data submitted.

(b) ''Depreciation policies'' means the determination of the estimated useful life of a depreciable asset in its normal operating or service life. The useful lives of hospital assets shall be based on the most recent American Hospital Association's useful life guidelines for depreciable assets.

(Transferred from § 19a-167g-52 and amended, effective November 1, 2007)

Sec. 19a-643-203. Pricemaster

(a) A pricemaster, also known as a chargemaster, is the detailed schedule of all hospital charges that is required to be on file with the office in accordance with section 19a-681 of the Connecticut General Statutes.

(b) Each acute care general or children's hospital shall file its most current pricemaster with the Office and shall be responsible for maintaining its accuracy and filing it in a timely manner. A hospital may start to charge for new drugs, supplies, tests and procedures that were not listed on its last hospital pricemaster filed with the office.

(Transferred from § 19a-167g-54 and amended, effective November 1, 2007)

Sec. 19a-643-204. Filing of pricemaster data

(a) Each acute care general or children's hospital shall file with the office a copy of the pricemaster that was in effect on the last day of the month by no later than the fifteenth calendar day of the following month, which shall include all new or

revised charges not previously reported to the office. Pricemaster data shall be filed in an electronic format and medium specified by the office.

(b) Each pricemaster shall contain the following:

(1) A column for an item code number which shall uniquely identify each item in the pricemaster and shall be consistent with the item code utilized on the hospital's detailed patient bills. This column shall be labeled ''Item Code'';

(2) A column for an item description which shall uniquely describe each item in the pricemaster and shall be consistent with the item description utilized on the hospital's detailed patient bills. This column shall be labeled ''Item Description''; and

(3) A column for the item price in effect as of the last day of the month for which the pricemaster is applicable. This column shall be labeled ''Item Price''.

(c) All pricemasters shall be filed with the office electronically in a format prescribed by the office. Each filing shall be accompanied by a cover letter that includes the month and year when the pricemaster took effect, the name of the file or files, and the name of the program used.

(d) A hospital may be subject to a civil penalty of $500 per occurrence assessed by the office in accordance with section 19a-681 of the Connecticut General Statutes, if the hospital is found not to be in compliance with this section.

(Transferred from § 19a-167g-90 and amended, effective November 1, 2007)

Sec. 19a-643-205. Hospital budget filing

(a) **Applicability:** Each acute care general or children's hospital shall submit to the office by March 31st of each year the hospital operating budget approved by the hospital's governing body for the fiscal year that commenced on October 1st, or July 1st for John Dempsey Hospital of the University of Connecticut Health Center, of the previous calendar year in such form as the office may require.

(b) **Content of hospital budget filing:** the hospital's approved operating budget filing shall consist of the following required information components to be submitted annually to the office by March 31st in accordance with section 19a-637a of the Connecticut General Statutes:

(1) Hospital budgeted revenue and expenses including, but not limited to, gross revenue, deductions from gross revenue, other operating revenue, operating expenses and non-operating revenue; and

(2) Hospital budgeted utilization statistics including, but not limited to, inpatient and outpatient statistics as determined by the office.

(Adopted effective November 1, 2007)

Sec. 19a-643-206. Annual reporting and twelve months actual filing

(a) **Applicability to hospitals:**

(1) Each acute care general or children's hospital subject to the provisions of section 19a-644(a) of the Connecticut General Statutes shall report to the office by February 28th of each year with respect to its operations for the most recently completed fiscal year in such form as the office may require; and

(2) Each specialty hospital subject to the provisions of section 19a-644(d) of the Connecticut General Statutes shall report to the office by the end of the fifth month after the hospital's fiscal year ending date. The specialty hospital shall submit audited financial statements that are general purpose financial statements, which express the unqualified opinion of an independent certified public accounting firm for the most recently completed fiscal year for the hospital, or audited consolidated financial statements for the hospital's parent corporation and consolidating financial state-

ments that at a minimum contain a balance sheet and statement of operations and that provide a breakout of the hospital's and each affiliate's numbers with a report of independent accountants on other financial information.

(b) **Content of Annual Reporting:** The hospital's annual report for the most recently completed fiscal year shall consist of the following required information components to be submitted annually to the office by February 28th in accordance with sections 19a-509b (f), 19a-644, 19a-649 and 19a-673c of the Connecticut General Statutes:

(1) Audited financial statements that are general purpose financial statements, which express the unqualified opinion of an independent certified public accounting firm for the most recently completed fiscal year for the hospital, each of its affiliates except for those affiliates that were inactive or that had an immaterial amount of total assets, and the hospital's parent corporation that include the following:

(A) A separately bound original submitted by an independent certified public accounting firm and also a PDF version in Adobe Acrobat of all audited financial statements submitted;

(B) A note in the hospital's audited financial statements that identifies individual amounts for the hospital's gross patient revenue, allowances, charity care and net patient revenue;

(C) Audited consolidated financial statements for hospitals with subsidiaries and consolidating financial statements that at a minimum contain a balance sheet and statement of operations and that provide a breakout of the hospital's and each subsidiary's numbers with a report of independent accountants on other financial information; and

(D) Audited consolidated financial statements for the hospital's parent corporation and consolidating financial statements that at a minimum contain a balance sheet and statement of operations and that provide a breakout of the hospital's and each affiliate's numbers with a report of independent accountants on other financial information;

(2) The Medicare cost report for the most recently completed fiscal year, as filed in electronic media format, and any final audited Medicare cost reports for prior fiscal years submitted on paper, which have not been previously submitted to the office;

(3) The most recent legal chart of corporate structure including the hospital, each of its affiliates and subsidiaries and its parent corporation, duly dated;

(4) Separate current lists of officers and directors for the hospital, each of its affiliates and its parent corporation as of the February 28th annual reporting submission date;

(5) A report that identifies by purpose, the ending fund balances of the net assets of the hospital and each affiliate as of the close of the most recently completed fiscal year, distinguishing between donor permanently restricted, donor temporarily restricted, board restricted and unrestricted fund balances. The hospital's interest in its foundation shall be deducted from the foundation's total fund balance;

(6) A report that identifies all transactions between the hospital and each of its affiliates during the most recently completed fiscal year including, but not limited to, the amount of any transfers of funds, transfers of assets, and sales/purchases of services or commodities, and all transactions between affiliates;

(7) A report that identifies all expenditures incurred by each affiliate for the benefit of the hospital, e.g., subsidized housing for staff, during the most recently completed fiscal year, and the amount of any such expenditures;

(8) A report that identifies all commitments or endorsements entered into by the hospital for the benefit of each affiliate;

(9) The total number of discharges and the related number of patient days by town of origin, based on zip code and diagnostic category for the most recently completed fiscal year accounting for 100 percent of total discharges and related patient days;

(10) The average length of stay and length of stay range by diagnostic category, age grouping and expected payer source;

(11) The total number of discharges to a residence, a home health agency, another hospital, a skilled nursing facility, an intermediate care facility and to all other locations;

(12) The total number of inpatient surgical procedures by diagnosis, principal surgical procedure and age grouping with the related number of cases and patient days;

(13) Outpatient surgical procedures including ambulatory surgery by principal surgical procedure and age grouping with the related number of cases. For purposes of this section, ambulatory surgery is defined as surgical patient admissions discharged prior to the midnight census on the day of admission after the patient has undergone a surgical procedure requiring the use of a fully equipped operating room, i.e. one equipped to administer general anesthesia, whether or not the patient is admitted to a discrete ambulatory or same day surgery unit;

(14) Case mix and revenue support schedules in a format acceptable to the office. Case mix shall be reported by identifying the number of discharges in each DRG. Revenue support schedules shall include identification of gross charges by payer classification for each DRG;

(15) Information concerning uncompensated care that includes a copy of the hospital's policies and procedures related to charity care and bad debts that were in effect for the hospital's most recently completed fiscal year;

(16) A report identifying all donations and funds, which are or have been restricted for the care of indigent patients at the end of the most recently completed fiscal year. The report shall include, but is not limited to, information which identifies the principal balance and all earned income for the previous year, as well as, projected interest income expected to be earned during the current fiscal year;

(17) A report from each hospital that holds or administers one or more hospital bed funds that is maintained and annually compiled by the hospital for the most recently completed fiscal year, and that is permanently retained by the hospital and, upon the office's request, provides the following fiscal year information:

(A) the number of applications for hospital bed funds;

(B) the number of patients receiving hospital bed fund grants and the actual amounts provided to each patient from such funds;

(C) the fair market value of the principal of each individual hospital bed fund, or the principal attributable to each bed fund if held in a pooled investment;

(D) the total earnings for each hospital bed fund or the earnings attributable to each hospital bed fund;

(E) the dollar amount of earnings reinvested as principal, if any; and

(F) the dollar amount of earnings available for patient care;

(18) A report that provides the following hospital debt collection information:

(a) whether the hospital uses a collection agent to assist with debt collection;

(b) the name of any collection agent used by the hospital;

(c) the hospital's processes and policies for assigning a debt to a collection agent and for compensating such collection agent for services rendered, and

(d) the recovery rate on accounts assigned to collection agents, exclusive of Medicare accounts, for the hospital's most recently completed fiscal year;

(19) A report listing the salaries and fringe benefits for the ten highest paid positions in the hospital. Each position shall be identified by its complete, unabbreviated title. Fringe benefits shall include all forms of compensation whether actual or deferred, made to or on behalf of the employee whether full or part-time. Fringe benefits shall include but not be limited to the following:

(A) The cost to the hospital of all health, life, disability or other insurance or benefit plans;

(B) The cost of any employer payments or liability to employee retirement plans or programs;

(C) The cost or value of any bonus, incentive or longevity plans not included under normal salary reporting guidelines;

(D) The cost or value of any housing, whether in the form of a house, apartment, condominium, dormitory or room of any type, whether full-time or only available for part-time use, if subsidized in full or in part by the hospital and not located directly within a hospital building offering direct patient care;

(E) The fair market value of any office space, furnishings, telephone service, support service staff, support service equipment, billing or collection services or similar benefits provided to any person for use when seeing non-hospital or private patients or clients. This value shall be prorated based on the total number of hospital and non-hospital patient billing units or provider man-hours involved. For purposes of this subparagraph, if both hospital and non-hospital clients are served from the same location, hospital patients are defined as patients who are billed directly by the hospital for the service provided and for whom the hospital retains the full payment received as part of its gross operating revenue;

(F) the fair market value of the cost or subsidy of the use of any automobile, transportation tickets or passes, free or reduced parking, travel expenses, hotel accommodations, etc.; and

(G) Any items of value available to employees and not specifically listed above;

(20) A report containing the following:

(A) The full name of the hospital and each joint venture, partnership and related corporation affiliated with the hospital;

(B) The name and address of the chief executive officer of the hospital and each affiliate listed under this subdivision;

(C) The name and address of the Connecticut agent for service for the hospital and each affiliate listed under this subdivision; and

(D) A brief description of what each affiliate is, does or proposes to do and the type of services provided or functions performed;

(21) A report containing the salaries and the fair market value of any fringe benefits paid to hospital employees by each joint venture, partnership and related corporation, either directly or indirectly, and by the hospital to the employees of any of its affiliates. Indirect payments include, but are not limited to, payments made to each affiliate. For purposes of this section, a hospital employee is anyone who provides a service, which incurs an expense for the hospital; and

(22) A report of all transfers of assets, transfers of operations or changes of control involving the hospital's clinical or nonclinical services or functions from the hospital to a person or entity organized or operated on a for profit basis.

(c) **Content of Twelve Months Actual Filing.** The hospital's twelve months actual filing for the most recently completed fiscal year shall consist of the following required information components to be submitted annually to the Office by March 31st in accordance with sections 19a-649 and 19a-676 of the Connecticut General Statutes:

(1) Medicare managed care inpatient and outpatient charges, payments, discharges and patient days by payer;

(2) Medicaid managed care and medical assistance non-managed care inpatient and outpatient charges, payments, discharges and patient days by payer;

(3) Charity care, bad debts and total uncompensated care;

(4) Non-government payers' discount percentages, gross revenue, contractual allowances and payments either in total or by payer;

(5) Operating revenue and expenses including, but not limited to, gross revenue, deductions from gross revenue, other operating revenue, operating expenses and non-operating revenue;

(6) Discharges by DRG and the calculation of case mix adjusted discharges and case mix index;

(7) Inpatient and outpatient utilization statistics by service including licensed and staffed beds and percentage of occupancy, inpatient gross revenue and utilization statistics by payer, outpatient gross revenue by payer, total full time equivalent employees, and other services utilization statistics;

(8) Data inputs from hospital external source reports and external and internal source data reconciliations that include the reconciliation of data items from inputs of specific balance sheet, statement of operations and utilization statistics information and any other data contained in the hospital's most recent Medicare cost report and audited financial statements;

(9) A summary of gross revenue, net revenue, other operating revenue, revenue from operations, operating expenses, utilization statistics, case mix index, full time equivalent employees and related statistical analyses;

(10) Data inputs for inpatient and outpatient accrued charges and payments, payer mix, accrued discharges and patient days, average length of stay, case mix index and other required data elements used to calculate the disproportionate share hospital program underpayment calculations;

(11) A summary of inpatient and outpatient accrued charges and payments, accrued discharges, case mix index, other required data elements and a net revenue reconciliation to net revenue as defined by the office;

(12) A report providing the number of applicants for charity and reduced cost services, the number of approved applicants, and the total and average charges and costs of the amount of charity and reduced cost care provided; and

(13) A report of independent certified public accountants on applying agreed-upon procedures that provides the results of an independent audit of the level of charges, payments and discharges by primary payer related to Medicare, Medicaid, medical assistance, Champus, Tricare and non-governmental payers and the amount of Charity care and bad debts.

(d) A hospital requesting a partial waiver of the information required to be submitted to the office by an affiliate must request the waiver at least thirty (30) calendar days prior to the due date of the required submission. The waiver request must include the following:

(1) A legal chart of corporate structure showing the hospital and each of its affiliates and the lines of reporting authority and control;

(2) The name, address, title and telephone number of the President and Chief Executive Officer of each affiliate;

(3) A list identifying each affiliate for which a waiver of informational filings is requested, specifically identifying the filings to which the request pertains, when they are due, and the reasons for the request; and

(4) A statement signed under penalty of false statement by the President and Chief Executive Officer of the Connecticut hospital for each affiliate listed in (3) above, which states that the affiliate for which the partial waiver is requested:

(A) Does not direct or control the Connecticut hospital seeking the partial waiver; and

(B) Does not do business with or share facilities, finances, personnel or services with the Connecticut hospital; and

(C) Is not located in Connecticut and does not do business in Connecticut; or

(D) Has provided an explanation of why the hospital should be given a waiver of some or all of the affiliate's filing requirements even though (A), (B), or (C) above do not apply. The explanation shall include details of the extent to which (A), (B) and/or (C) do apply.

(Transferred from § 19a-167g-91 and amended, effective November 1, 2007)