



May 10, 2019

Guidance Regarding the Certificate of Need Process and Requirements for the Acquisition of Imaging Equipment

OHS_HSP Guidance 19-001

Effective immediately, the Health Systems Planning Unit of the Office of Health Strategy will no longer require a CON for the acquisition of single positron emission computed tomography (SPECT), SPECT-CT or cone beam computed tomography (CBCT) equipment.

Instead, the Health Systems Planning Unit (HSP) will enforce the Certificate of Need (CON) application process as written, and is modifying its implementation of the Certificate of Need (CON) application process to more accurately align with the statutory criteria as set forth in Connecticut General Statute § 19a-638. C.G.S. § 19a-638(a)(10) states that a CON shall be required for: “[t]he acquisition of computed tomography scanners, magnetic resonance imaging scanners, positron emission tomography scanners or positron emission tomography-computed tomography scanners, by any person, physician, provider, short-term acute care general hospital or children's hospital”.

Historically, the CON process, as established by Public Act 98-150, was regulated by the Office of Health Care Access (OHCA), under the Department of Public Health, which established its regulatory authority over capital acquisitions of imaging equipment costing over \$400,000. This authority was refined by Public Act 05-93, which further



clarified the meaning of the phrase ‘imaging equipment’ to include the following imaging equipment “a CT scanner, PET scanner, PET/CT scanner, MRI scanner, cineangiography equipment, a linear accelerator or other similar equipment utilizing technology that is new or being introduced into the state...”.¹ In particular, the language requiring a CON for any similar equipment prompted OHCA to apply the CON process to any similar advanced technology, including SPECT, SPECT/CT and cone beam computed technology (CBCT).

However, Public Act 10-179 again revised the statute delineating the parameters of the CON process. This Act introduced important changes to the CON statutes, striking the broad language of C.G.S. § 19a-638(a) and replacing it with a list of twenty-two specific transactions that would trigger the requirement for OHCA approval of a CON. Specifically, the original language of §19a-638(a) requiring a CON for “a CT scanner, PET scanner, PET/CT scanner, MRI scanner, cineangiography equipment, a linear accelerator or other similar equipment utilizing technology that is new or being introduced into the state...”² was replaced with new language narrowing the requirement for a CON to “[t]he acquisition of computed tomography scanners, magnetic resonance imaging scanners, positron emission tomography scanners or positron emission tomography-computed tomography scanners”.³ Despite the explicit removal of language that had extended the CON requirement to include similar imaging equipment, given the historically broad scope of OHCA’s oversight over the CON process, acquisitions of certain, similar imaging equipment not specifically identified in statute continued to be subject to CON application and approval processes.

¹ CT PA 05-93 §1

² Id.

³ CT PA 10-179 §87



The Office of Health Strategy (OHS), established pursuant to 19a-754a, was tasked with a mission to, in relevant part, develop and implement a comprehensive and cohesive health care vision for the state, including a coordinated state health care cost containment strategy and to direct and oversee the Office of Health Care Access and all of its duties and responsibilities.⁴ Under OHS, OHCA became the Health Systems Planning Unit (HSP). Recent efforts in response to stakeholder calls for the simplification of and a reduction in the administrative complexity of the Certificate of Need process prompted OHS to reconsider its statutory mandate concerning CON applications. The office considered whether acquisitions of single-photon emission computed tomography (SPECT), SPECT-CT or cone beam CT (CBCT) were subject to the statutory criteria for CON, equipment whose efficacy is well established and has been in clinical use for decades. Given that in PA 10-179 the legislature intentionally narrowed the statutory requirements for a CON for the acquisition of imaging equipment, eliminating the provision extending CON to *similar equipment*, and that it chose not to include SPECT, SPECT-CT or CBCT as covered equipment under CON, the HSP is revising its policy concerning requirements for CON of the acquisition of imaging equipment. This approach applies the plain language of §19a-638(a) to this regulatory process.

For any questions, please contact the Office of Health Strategy, Health Systems Planning Unit at 860-418-7008.

⁴ CT SA 17-2 §164

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