§ 131E-189. Withdrawal of a certificate of need.

(a) The Department shall specify in each certificate of need the time the holder has to make the service or equipment available or to complete the project and the timetable to be followed. The timetable shall be the one proposed by the holder of the certificate of need unless the Department specifies a different timetable in its decision letter. The holder of the certificate shall submit such periodic reports on his progress in meeting the timetable as may be required by the Department. If no progress report is provided or, after reviewing the progress, the Department determines that the holder of the certificate is not meeting the timetable and the holder cannot demonstrate that it is making good faith efforts to meet the timetable, the Department may withdraw the certificate. If the Department determines that the holder of the certificate is making a good faith effort to meet the timetable, the Department may, at the request of the holder, extend the timetable for a specified period.

(b) The Department may withdraw any certificate of need, if the holder of the certificate fails to develop the service in a manner consistent with the representations made in the application or with any condition or conditions the Department placed on the certificate of need.

(c) The Department may immediately withdraw any certificate of need if the holder of the certificate, before completion of the project or operation of the facility, transfers ownership or control of the facility, the project, or the certificate of need. Any transfer after that time will be subject to the requirement that the service be provided consistent with the representations made in the application and any applicable conditions the Department placed on the certificate of need. Transfers resulting from death or personal illness or other good cause, as determined by the Department, shall not result in withdrawal if the Department receives prior written notice of the transfer and finds good cause. Transfers resulting from death shall not result in withdrawal.

(d) Notwithstanding subsections (a), (b), or (c) of this section, a certificate of need issued by the Department for the construction of a health service facility on or after October 1, 2021, expires if the holder of the certificate of need fails to execute or commit to a contract for design services for the project authorized by the certificate of need within the following time frames:

(1) For a project that costs over fifty million dollars ($50,000,000), the holder of the certificate of need shall execute or commit to a contract for design services for the project authorized by the certificate of need within four years after the date the Department's decision to approve the certificate of need for that project becomes final.

(2) For a project that costs fifty million dollars ($50,000,000) or less, the holder of the certificate of need shall execute or commit to a contract for design services for the project authorized by the certificate of need within two years after the date the Department's decision to approve the certificate of need for that project becomes final.

(e) Notwithstanding subsections (a), (b), or (c) of this section, a certificate of need issued by the Department for the construction of a health service facility prior to October 1, 2021, expires if the holder of the certificate of need fails to execute or commit to a contract for design services for the project authorized by the certificate of need within the following time frames:

(1) For a project that costs over fifty million dollars ($50,000,000), the holder of the certificate of need shall execute or commit to a contract for design services for the project authorized by the certificate of need by October 1, 2025.

(2) For a project that costs fifty million dollars ($50,000,000) or less, the holder of the certificate of need shall execute or commit to a contract for design services for the project authorized by the certificate of need by October 1, 2023.

(f) Notwithstanding subsections (d) and (e) of this section, certificates of need that (i) are issued for the construction of a health service facility prior to October 1, 2021, and (ii) have a specific deadline to execute or commit to a contract for design services for the project authorized

by the certificate of need will not expire unless the holder fails to execute or commit to a contract for design services by the deadline specified in the certificate of need.

(g) In the event the holder of a certificate of need is unable to execute or commit to a contract for design services for the project due to developments beyond the control of the holder of the certificate of need or for other good cause, the time for performance shall be extended by a period equal to the period during which performance of the obligation has been delayed or failed to be performed. (1977, 2nd Sess., c. 1182, s. 2; 1981, c. 651, s. 12; 1983, c. 775, s. 1; 1987, c. 511, s. 1; 1993, c. 7, s. 10; 2021-129, s. 2.)