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# A BILL FOR AN ACT

RELATING TO CERTIFICATES OF NEED.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 323D, Hawaii Revised Statutes, is  
2 amended by adding a new section to part V to be appropriately  
3 designated and to read as follows:

4           "§323D-       State agency review of subarea council and  
5 statewide council recommendations for issuance or denial of  
6 certificate of need. In reviewing the recommendations of the  
7 respective subarea council and the statewide council regarding a  
8 certificate of need application, the state agency shall give  
9 greater weight to the recommendations of the respective subarea  
10 council if it conflicts with the recommendations of the  
11 statewide council, unless the state agency finds good cause  
12 exists to reject such recommendations."

13           SECTION 2. Section 323D-1, Hawaii Revised Statutes, is  
14 amended to read as follows:

15           "§323D-1 [Purpose] General purpose and objectives. The  
16 purpose of this chapter is to establish a health planning and  
17 resources development program to promote accessibility for all



1 the people of the [State] state to quality health care services  
2 at reasonable cost.

3 The health planning and resources development program  
4 shall:

- 5 (1) Make broad policy determinations with respect to  
6 development of the health care industry, and to  
7 stimulate through research and demonstration projects,  
8 those industrial and economic development efforts that  
9 offer the most immediate promise of expanding the  
10 health care industry, and the types of health care  
11 services available in the state, and of further  
12 diversifying the State's economy;
- 13 (2) Determine through technical and research studies, the  
14 profit potential of new or expanded undertakings in  
15 the health care industry and high technology medical  
16 research;
- 17 (3) Disseminate information to assist current health care  
18 providers and high technology medical researchers in  
19 this state; to attract new health care providers and  
20 high technology medical researchers to this state; and  
21 to encourage capital investment in existing and new



1 areas of health care services and high technology  
2 medical research;

3 (4) Encourage innovation of research into new medical  
4 technologies to improve the lives of the State's  
5 citizens, as well as encourage others from within this  
6 country and from the world to seek medical treatment  
7 from health care providers and high technology medical  
8 researchers in Hawaii;

9 (5) Enter into contracts as may be necessary or advisable  
10 to accomplish the foregoing purpose and objectives;

11 (6) Work collaboratively with other state departments and  
12 agencies and with other governmental entities  
13 operating both within and outside the state to  
14 accomplish the foregoing purpose and objectives; and

15 (7) Disseminate information developed for or by the  
16 program pertaining to the development of the State's  
17 health care providers and high technology medical  
18 researchers to assist the present health care and  
19 medical research industry in the state; to attract new  
20 industry and investment in this State in highly  
21 advanced medical technologies; and to lead this State  
22 into becoming America's vanguard of cutting edge



1           medical technology, particularly in the Asia-Pacific  
2           region."

3           SECTION 3. Section 323D-2, Hawaii Revised Statutes, is  
4 amended to read as follows:

5           "**§323D-2 Definitions.** As used in this chapter[+], unless  
6 the context requires otherwise:

7           "Applicant" means any person who applies for a certificate  
8 of need under part V.

9           ~~["Assisted living facility" means a combination of housing,~~  
10 ~~health care services, and personalized support services designed~~  
11 ~~to respond to individual needs, and to promote choice,~~  
12 ~~responsibility, independence, privacy, dignity, and~~  
13 ~~individuality. In this context, "health care services" means~~  
14 ~~the provision of services in an assisted living facility that~~  
15 ~~assists the resident in achieving and maintaining the highest~~  
16 ~~state of positive well-being (i.e., psychological, social,~~  
17 ~~physical, and spiritual) and functional status. This may~~  
18 ~~include nursing assessment and monitoring, and the delegation of~~  
19 ~~nursing tasks by registered nurses pursuant to chapter 457, care~~  
20 ~~management, monitoring, records management, arranging for,~~  
21 ~~and/or coordinating health and social services.]~~



1 "Capital expenditure" means any purchase or transfer of  
2 money or anything of value or enforceable promise or agreement  
3 to purchase or transfer money or anything of value incurred by  
4 or in behalf of any person for construction, expansion,  
5 alteration, conversion, development, initiation, or modification  
6 as defined in this section. The term includes the:

- 7 (1) Cost of studies, surveys, designs, plans, working  
8 drawings, specifications, and other preliminaries  
9 necessary for construction, expansion, alteration,  
10 conversion, development, initiation, or modification;
- 11 (2) Fair market values of facilities and equipment  
12 obtained by donation or lease or comparable  
13 arrangements as though the items had been acquired by  
14 purchase; and
- 15 (3) Fair market values of facilities and equipment  
16 transferred for less than fair market value, if a  
17 transfer of the facilities or equipment at fair market  
18 value would be subject to review under section 323D-  
19 43.

20 "Certificate of need" means an authorization, when required  
21 pursuant to section 323D-43, to construct, expand, alter, or  
22 convert [~~a health care~~] an emergency room or freestanding



1 emergency care facility or to initiate, expand, develop, or  
2 modify a [~~health-care~~] surface ambulance service.

3 "Construct", "expand", "alter", "convert", "develop",  
4 "initiate", or "modify" includes the erection, building,  
5 reconstruction, modernization, improvement, purchase,  
6 acquisition, or establishment of [~~a health-care~~] an emergency  
7 room or freestanding emergency care facility or [~~health-care~~]  
8 surface ambulance service; the purchase or acquisition of  
9 equipment attendant to the delivery of [~~health-care service~~]  
10 these activities and the instruction or supervision therefor;  
11 the arrangement or commitment for financing the offering or  
12 development of [~~a health-care facility or health-care~~] an  
13 emergency room or freestanding emergency care facility or  
14 surface ambulance service; any obligation for a capital  
15 expenditure by [~~a health-care facility;~~] these activities; and  
16 studies, surveys, designs, plans, working drawings,  
17 specifications, procedures, and other actions necessary for any  
18 such undertaking, which will:

- 19 (1) Result in a total capital expenditure in excess of the  
20 expenditure minimum,  
21 (2) Substantially modify, decrease, or increase the scope  
22 or type of [~~health~~] emergency room, freestanding



1           emergency care, or surface ambulance service  
 2           rendered[~~, or~~  
 3           ~~(3) Increase, decrease, or change the class of usage of~~  
 4           ~~the bed complement of a health care facility].~~

5           "Emergency room services" means services provided in a  
 6           designated unit within a hospital for the immediate treatment of  
 7           injury and other types of health emergencies.

8           "Expenditure minimum" means \$4,000,000 for capital  
 9           expenditures, \$1,000,000 for new or replacement medical  
 10          equipment and \$400,000 for used medical equipment.

11          ~~["Extended care adult residential care home" means an adult~~  
 12          ~~residential care home providing twenty-four-hour living~~  
 13          ~~accommodation for a fee, for adults unrelated to the licensee.~~  
 14          ~~The primary caregiver shall be qualified to provide care to~~  
 15          ~~nursing facility level individuals who have been admitted to a~~  
 16          ~~Medicaid waiver program, or persons who pay for care from~~  
 17          ~~private funds and have been certified for this type of facility.~~  
 18          ~~There shall be two categories of extended care adult residential~~  
 19          ~~care homes, which shall be licensed in accordance with rules~~  
 20          ~~adopted by the department of health:~~



1       ~~(1) Type I home shall consist of five or less unrelated~~  
2               ~~persons with no more than two extended care adult~~  
3               ~~residential care home residents; and~~

4       ~~(2) Type II home shall consist of six or more unrelated~~  
5               ~~persons and one or more persons may be extended care~~  
6               ~~adult residential care home residents.]~~

7       "Freestanding emergency care facility" means an  
8       establishment, place, or facility structurally distinct and  
9       separate from a hospital, which represents itself either through  
10       advertising or name as providing emergency medical care services  
11       in life, limb, or function-threatening conditions beyond the  
12       occasional emergency that occurs in the normal course of any  
13       clinical practice."

14       "Health" includes physical and mental health.

15       ~~["Health care facility" and "health care service" include~~  
16       ~~any program, institution, place, building, or agency, or portion~~  
17       ~~thereof, private or public, other than federal facilities or~~  
18       ~~services, whether organized for profit or not, used, operated,~~  
19       ~~or designed to provide medical diagnosis, treatment, nursing,~~  
20       ~~rehabilitative, or preventive care to any person or persons.~~  
21       ~~The terms include, but are not limited to, health care~~  
22       ~~facilities and health care services commonly referred to as~~





1 ~~hospitals, extended care and rehabilitation centers, nursing~~  
2 ~~homes, skilled nursing facilities, intermediate care facilities,~~  
3 ~~hospices for the terminally ill that require licensure or~~  
4 ~~certification by the department of health, kidney disease~~  
5 ~~treatment centers including freestanding hemodialysis units,~~  
6 ~~outpatient clinics, organized ambulatory health care facilities,~~  
7 ~~emergency care facilities and centers, home health agencies,~~  
8 ~~health maintenance organizations, and others providing similarly~~  
9 ~~organized services regardless of nomenclature.~~

10 ~~"Health care provider" means a health care facility,~~  
11 ~~physician, dentist licensed under chapter 448, chiropractor~~  
12 ~~licensed under chapter 442, optometrist licensed under chapter~~  
13 ~~459, podiatrist licensed under chapter 463E, psychologist~~  
14 ~~licensed under chapter 465, occupational therapist subject to~~  
15 ~~chapter 457G, and physical therapist licensed under chapter~~  
16 ~~461J.~~

17 ~~"Organized ambulatory health care facility" means a~~  
18 ~~facility not part of a hospital, which is organized and operated~~  
19 ~~to provide health services to outpatients. The state agency may~~  
20 ~~adopt rules to establish further criteria for differentiating~~  
21 ~~between the private practice of medicine and organized~~  
22 ~~ambulatory health care facilities.]~~



1 "Person" means an individual or a natural person, a trust  
2 or estate, a society, a firm, an assembly, a partnership, a  
3 corporation, a professional corporation, an association, the  
4 State, any political subdivision of the State, a county, a state  
5 agency or any instrumentality of the State, a county agency or  
6 any instrumentality of a county.

7 ~~["Physician" means a doctor of medicine or osteopathy who~~  
8 ~~is legally authorized to practice medicine and surgery by the~~  
9 ~~State.~~

10 ~~"Primary care clinic" means a clinic for outpatient~~  
11 ~~services providing all preventive and routine health care~~  
12 ~~services, management of chronic diseases, consultation with~~  
13 ~~specialists when necessary, and coordination of care across~~  
14 ~~health care settings or multiple providers or both. Primary~~  
15 ~~care clinic providers include:~~

- 16 ~~(1) General or family practice physicians;~~  
17 ~~(2) General internal medicine physicians;~~  
18 ~~(3) Pediatricians;~~  
19 ~~(4) Obstetricians and gynecologists;~~  
20 ~~(5) Physician assistants; and~~  
21 ~~(6) Advanced practice registered nurses.~~



1       ~~"Review panel" means the panel established pursuant to~~  
2 ~~section 323D-42.]~~

3       "State agency" means the state health planning and  
4 development agency established in section 323D-11.

5       "State health services and facilities plan" means the  
6 comprehensive plan for the economical delivery of health  
7 services in the [State] state prepared by the statewide council.

8       "Statewide council" means the statewide health coordinating  
9 council established in section 323D-13.

10       "Subarea" means one of the geographic subareas designated  
11 by the state agency pursuant to section 323D-21.

12       "Subarea council" means a subarea health planning council  
13 established pursuant to section 323D-21.

14       "Substantially modify, decrease, or increase the scope or  
15 type of health service" refers to the establishment of a new  
16 ~~[health care facility or health care service or the addition of~~  
17 ~~a clinically related (i.e., diagnostic, curative, or~~  
18 ~~rehabilitative) service not previously provided or the~~  
19 ~~termination of such a service which had previously been~~  
20 ~~provided.] emergency room, freestanding emergency care facility,~~  
21 or surface ambulance service.



1       "Surface ambulance" services include transportation of a  
2 patient in any motor vehicle or watercraft specifically  
3 equipped, designed, or constructed and maintained or operated  
4 for the purpose of accommodating the medical needs of patients."

5       SECTION 4. Section 323D-12, Hawaii Revised Statutes, is  
6 amended to read as follows:

7       "**§323D-12 Health planning and development functions; state**  
8 **agency.** (a) The state agency shall:

9       (1) Have as a principal function the responsibility for  
10       promoting accessibility for all the people of the  
11       [State] state to quality health care services at  
12       reasonable cost~~[-. The state agency shall conduct such~~  
13       ~~studies and investigations as may be necessary as to~~  
14       ~~the causes of health care costs including inflation.~~  
15       ~~The state agency may contract for services to~~  
16       ~~implement this paragraph. The certificate of need~~  
17       ~~program mandated under part V shall serve this~~  
18       ~~function. The state agency shall promote the sharing~~  
19       ~~of facilities or services by health care providers~~  
20       ~~whenever possible to achieve economies and shall~~  
21       ~~restrict unusual or unusually costly services to~~



1 ~~individual facilities or providers where~~  
2 ~~appropriate.]~~;

3 (2) Serve as staff to and provide technical assistance and  
4 advice to the statewide council and the subarea  
5 councils in the preparation, review, and revision of  
6 the state health services and facilities plan;

7 (3) Conduct the health planning activities of the State in  
8 coordination with the subarea councils, implement the  
9 state health services and facilities plan, and  
10 determine the statewide health needs of the State  
11 after consulting with the statewide council; and

12 (4) Administer the state certificate of need program  
13 pursuant to part V.

14 (b) The state agency may:

15 (1) Prepare such reports and recommendations on Hawaii's  
16 health care costs and public or private efforts to  
17 reduce or control costs and health care quality as it  
18 deems necessary. The report may include[7] but not be  
19 limited to[7] a review of health insurance plans, the  
20 availability of various kinds of health insurance and  
21 malpractice insurance to consumers, and strategies for



- 1 increasing competition in the health insurance  
2 field[-];  
3 (2) Prepare and revise as necessary the state health  
4 services and facilities plan[-];  
5 (3) Prepare, review, and revise the annual implementation  
6 plan[-];  
7 (4) Assist the statewide council in the performance of its  
8 functions[-];  
9 (5) Determine the need for new health services proposed to  
10 be offered within the State[-];  
11 (6) Assess existing health care services and facilities to  
12 determine whether there are redundant, excessive, or  
13 inappropriate services or facilities and make public  
14 findings of any that are found to be so[~~-. The state~~  
15 ~~agency shall weigh the costs of the health care~~  
16 ~~services or facilities against the benefits the~~  
17 ~~services or facilities provide and there shall be a~~  
18 ~~negative presumption against marginal services.~~];  
19 (7) Provide technical assistance to persons, public or  
20 private, in obtaining and filling out the necessary  
21 forms for the development of projects and programs[-];



1 (8) Prepare reports, studies, and recommendations on  
2 emerging health issues, such as medical ethics,  
3 ~~[health care rationing,]~~ involuntary care, care for  
4 the indigent, and standards for research and  
5 development of biotechnology and genetic  
6 engineering~~[-]~~; and

7 (9) Conduct such other activities as are necessary to meet  
8 the purposes of this chapter."

9 SECTION 5. Section 323D-14, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 **"§323D-14 Functions; statewide health coordinating**  
12 **council.** The statewide council shall:

13 (1) Prepare and revise as necessary the state health  
14 services and facilities plan;

15 (2) Advise the state agency on actions under section 323D-  
16 12;

17 ~~[(3) Appoint the review panel pursuant to section 323D-42;~~  
18 ~~and~~

19 ~~(4) Review and comment upon the following actions by the~~  
20 ~~state agency before such actions are made final;~~

21 ~~(A) The making of findings as to applications for~~  
22 ~~certificate of need; and~~



1           ~~(B) The making of findings as to the appropriateness~~  
 2                   ~~of those institutional and noninstitutional~~  
 3                   ~~health services offered in the State.] and~~  
 4           (3) Perform the initial review of certificate of need  
 5                   applications, including making recommendations to the  
 6                   state agency and the respective subarea council and  
 7                   commenting upon the certificate of need application."

8           SECTION 6. Section 323D-18, Hawaii Revised Statutes, is  
 9 amended to read as follows:

10           "**§323D-18 Information required of providers.** Providers of  
 11 health care doing business in the [~~State~~] state shall submit  
 12 such statistical and other reports of information related to  
 13 health and health care as the state agency finds necessary to  
 14 the performance of its functions[~~. The information deemed~~  
 15 ~~necessary includes but is not limited to:~~

16           ~~(1) Information], including information~~ regarding changes  
 17                   in the class of usage of the bed complement of a  
 18                   health care facility under section 323D-54(9) [~~+~~

19           ~~(2) Implementation of services under section 323D-54;~~

20           ~~(3) Projects that are wholly dedicated to meeting the~~  
 21                   ~~State's obligations under court orders, including~~  
 22                   ~~consent decrees, under section 323D-54(10);~~





1       ~~(4) Replacement of existing equipment with an updated~~  
2               ~~equivalent under section 323D-54(11);~~  
3       ~~(5) Primary care clinics under the expenditure thresholds~~  
4               ~~under section 323D-54(12); and~~  
5       ~~(6) Equipment and services related to that equipment, that~~  
6               ~~are primarily intended for research purposes as~~  
7               ~~opposed to usual and customary diagnostic and~~  
8               ~~therapeutic care]."~~

9       SECTION 7. Section 323D-22, Hawaii Revised Statutes, is  
10 amended by amending subsection (a) to read as follows:

11       "(a) Each subarea health planning council shall review,  
12 seek public input, and make recommendations relating to health  
13 planning for the geographical subarea it serves. In addition,  
14 the subarea health planning councils shall:

15       (1) Identify and recommend to the state agency and the  
16               council the data needs and special concerns of the  
17               respective subareas with respect to the preparation of  
18               the state plan[-];

19       (2) Provide specific recommendations to the state agency  
20               and the council regarding the highest priorities for  
21               health services and resources development[-];



- 1 (3) Review the state health services and facilities plan  
2 as it relates to the respective subareas and make  
3 recommendations to the state agency [~~and the~~  
4 ~~council.~~];
- 5 (4) Advise the state agency in the administration of the  
6 certificate of need program for their respective  
7 subareas[~~],~~ including reviewing comments of the  
8 statewide council and making a final recommendation to  
9 the state agency administrator;
- 10 (5) Advise the state agency on the cost of reimbursable  
11 expenses incurred in the performance of their  
12 functions for inclusion in the state agency budget[~~];~~
- 13 (6) Advise the state agency in the performance of its  
14 specific functions[~~];~~
- 15 (7) Perform other such functions as agreed upon by the  
16 state agency and the respective subarea councils[~~];~~  
17 and
- 18 (8) Each subarea health planning council shall recommend  
19 for gubernatorial appointment at least one person from  
20 its membership to be on the statewide council."

21 SECTION 8. Section 323D-43, Hawaii Revised Statutes, is  
22 amended by amending subsection (a) to read as follows:



1           "(a) No person, public or private, nonprofit, or for  
2 profit, shall:

3           (1) Construct, expand, alter, convert, develop, initiate,  
4 or modify [~~a health care facility~~] an emergency room,  
5 freestanding emergency facility, or [~~health care~~  
6 ~~services~~] surface ambulance service in the [~~State~~]  
7 state that requires a total capital expenditure in  
8 excess of [~~the expenditure minimums,~~] \$1,000,000; or

9           (2) Substantially modify or increase the scope or type of  
10 [~~health service~~] an emergency room, freestanding  
11 emergency care facility, or surface ambulance service  
12 rendered[~~, or~~

13 ~~(3) Increase, decrease, or change the class of usage of~~  
14 ~~the bed complement of a health care facility, or~~  
15 ~~relocate beds from one physical facility or site to~~  
16 ~~another,], unless a certificate of need therefor has  
17 first been issued by the state agency."~~

18           SECTION 9. Section 323D-44, Hawaii Revised Statutes, is  
19 amended by amending subsection (a) to read as follows:

20           "(a) An applicant for a certificate of need shall file an  
21 application with the state agency. The state agency shall

1 provide technical assistance to the applicant in the preparation  
2 and filing of the application.

3 Each application shall include a statement evaluating the  
4 facility's or service's probable impact on health care costs and  
5 providing additional data as required by rule. The statement  
6 shall include cost projections for at least the first and third  
7 years after its approval.

8 The state agency shall not accept an application for review  
9 until the application is complete and includes all necessary  
10 information required by the state agency. The state agency  
11 shall determine if the application is complete within thirty  
12 days of receipt of the application. If the state agency  
13 determines that the application is incomplete, the state agency  
14 shall inform the applicant of the additional information that is  
15 required to complete the application. When the state agency  
16 determines that the application is complete, the period for  
17 agency review described in subsection (b) shall begin, and the  
18 state agency shall transmit the completed application to the  
19 appropriate subarea councils, [~~the review panel,~~] the statewide  
20 council, appropriate individuals, and appropriate public  
21 agencies. The state agency may require the applicant to provide  
22 copies of the application to the state agency, the appropriate



1 subarea councils, [~~the review panel,~~] the statewide council,  
2 appropriate individuals, and appropriate public agencies. If,  
3 during the period for agency review, the state agency requires  
4 the applicant to submit information respecting the subject of  
5 the review, the period for agency review shall, at the request  
6 of the applicant, be extended fifteen days."

7 SECTION 10. Section 323D-44.5, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "**§323D-44.5 Administrative review of certain applications**  
10 **for certificate of need.** The state agency shall adopt rules in  
11 conformity with chapter 91 providing for administrative review  
12 and decision on certain applications for certificate of need.  
13 Each application reviewed under this section may be subject to a  
14 public information meeting before the state agency makes its  
15 decision. The agency, in the State and in the county affected,  
16 shall give public notice of applications for administrative  
17 review received by the agency. Interested persons may request  
18 in writing a public meeting before the agency renders a decision  
19 on the administrative application. If a request for a public  
20 meeting is received, the administrator will preside over the  
21 meeting. If no request is received by the agency within seven  
22 days of the public notice date, no public meeting need be



1 scheduled. Applications subject to administrative review and  
 2 decision under this section shall [~~include but are not limited~~  
 3 ~~to applications that are:~~

4 ~~(1) Inconsistent with or contrary to the state health~~  
 5 ~~services and facilities plan under section 323D-15;~~

6 ~~(2) Determined not to have a significant impact on the~~  
 7 ~~health care system; or~~

8 ~~(3) Involve capital or annual operating expenses below a~~  
 9 ~~significant level.]~~

10 be limited to those dealing with emergency room, freestanding  
 11 emergency care facilities, and surface ambulance services."

12 SECTION 11. Section 323D-44.6, Hawaii Revised Statutes, is  
 13 amended to read as follows:

14 **"§323D-44.6 Review of certain applications for certificate**  
 15 **of need; waiver.** The [~~subarea~~] statewide council, [~~the review~~  
 16 ~~panel,~~] and the [~~statewide~~] subarea council may, at their  
 17 discretion, choose to waive their respective prerogatives of  
 18 review of any certificate of need application."

19 SECTION 12. Section 323D-45, Hawaii Revised Statutes, is  
 20 amended to read as follows:

21 **"§323D-45 Subarea council[~~, review panel,~~] and statewide**  
 22 **council recommendations for issuance or denial of certificates**



1 **of need.** (a) Except for an administrative review as provided  
2 in section 323D-44.5, or in an emergency situation or other  
3 unusual circumstances as provided in section 323D-44(c), the  
4 state agency shall refer every application for a certificate of  
5 need to [~~the appropriate subarea council or councils, the review~~  
6 ~~panel, and~~] the statewide council[-] and the appropriate subarea  
7 council. The [~~subarea~~] statewide council [~~and the review panel~~]  
8 shall consider all relevant data and information submitted by  
9 the state agency, [~~subarea councils,~~] other areawide or local  
10 bodies, and the applicant, and may request from them additional  
11 data and information. [~~The review panel shall consider each~~  
12 ~~application at a public meeting and shall submit its~~  
13 ~~recommendations with findings to the statewide council.~~] The  
14 [~~statewide~~] subarea council shall consider the recommendation of  
15 the [~~review panel~~] statewide council at a public meeting and  
16 shall submit its recommendations to the state agency within such  
17 time as the state agency prescribes. The statewide council and  
18 the [~~review panel~~] subarea council may join together to hear or  
19 consider simultaneously information related to an application  
20 for a certificate of need.

21 (b) At a public meeting in which a [~~subarea~~] statewide or  
22 subarea council [~~or the review panel~~] considers an application



1 for a certificate of need, any person shall have the right to be  
2 represented by counsel and to present oral or written arguments  
3 and evidence relevant to the application; any person directly  
4 affected by the application may conduct reasonable questioning  
5 of persons who make factual allegations relevant to the  
6 application; any staff member of the state agency may conduct  
7 reasonable questioning of persons who make factual allegations  
8 relevant to the application; and a record of the meeting shall  
9 be kept."

10 SECTION 13. Section 323D-47, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "**§323D-47 Request for reconsideration.** (a) The state  
13 agency may provide by rules adopted in conformity with chapter  
14 91 for a procedure by which any person may, for good cause  
15 shown, request in writing a public hearing before a  
16 reconsideration committee for purposes of reconsideration of the  
17 agency's decision. The reconsideration committee shall consist  
18 of the administrator of the state agency [~~and the chairpersons~~],  
19 chairperson of the statewide council [~~the review panel, the plan~~  
20 ~~development committee of the statewide council,~~] and the chair  
21 and vice chairs of the appropriate subarea health planning  
22 council. The administrator shall be the chairperson of the





1 reconsideration committee. A request for a public hearing shall  
2 be deemed by the reconsideration committee to have shown good  
3 cause, if:

4 (1) It presents significant, relevant information not  
5 previously considered by the state agency;

6 (2) It demonstrates that there have been significant  
7 changes in factors or circumstances relied upon by the  
8 state agency in reaching its decision;

9 (3) It demonstrates that the state agency has materially  
10 failed to follow its adopted procedures in reaching  
11 its decision;

12 (4) It provides such other bases for a public hearing as  
13 the state agency determines constitutes good causes;  
14 or

15 (5) The decision of the administrator differs from the  
16 recommendations of the [~~statewide~~] subarea council.

17 (b) To be effective, a request for such a hearing shall be  
18 received within [~~ten working~~] thirty calendar days of the state  
19 agency decision. A decision of the reconsideration committee  
20 following a public hearing under this section shall be  
21 considered a decision of the state agency for purposes of  
22 section 323D-44.



1        (c) The public hearing on a request for reconsideration  
2 shall be held on the island where the facility is to be built or  
3 the service is to be rendered."

4        SECTION 14. Section 323D-49, Hawaii Revised Statutes, is  
5 amended to read as follows:

6        "**§323D-49 Certificates of need; licenses and permits.** (a)  
7 ~~[Nø] Where a certificate of need is required pursuant to section~~  
8 ~~323D-43, no permit or license shall be issued by any county or~~  
9 ~~state officer for the development, construction, expansion,~~  
10 ~~alteration, conversion, initiation, or modification [of a health~~  
11 ~~care facility or health care service] other than [an existing~~  
12 ~~hospital, or for the operation of a new health care facility or~~  
13 ~~health care service] an emergency room, freestanding emergency~~  
14 ~~care facility, or surface ambulance service unless there is~~  
15 ~~submitted in connection with the application for such permit or~~  
16 ~~license, a current certificate of need issued by the state~~  
17 ~~agency [or a statement issued by the state agency that the~~  
18 ~~health care facility or health care service is not required to~~  
19 ~~hold a certificate of need under this part].~~

20        (b) ~~[Nø] When a certificate of need is required under this~~  
21 ~~chapter, no building permit shall be issued by any county or~~  
22 ~~state officer for the development, construction, expansion,~~



1 alteration, conversion, initiation, or modification of [an  
2 ~~existing hospital unless there is submitted in connection with~~  
3 ~~the application for such building permit a current certificate~~  
4 ~~of need issued by the state agency or a statement issued by the~~  
5 ~~state agency that the existing hospital is not required to hold~~  
6 ~~a certificate of need under this part.] an emergency room,  
7 freestanding emergency care facility, or surface ambulance  
8 unit."~~

9 SECTION 15. Section 323D-50, Hawaii Revised Statutes, is  
10 amended by amending subsection (b) to read as follows:

11 "(b) Any license to operate a [~~health facility~~] surface  
12 ambulance service or emergency room may be revoked or suspended  
13 by the department of health at any time in a proceeding before  
14 the department for any person proceeding with an action covered  
15 under section 323D-43 without a certificate of need. If any  
16 such license is revoked or suspended by the department, the  
17 holder of the license shall be notified in writing by the  
18 department of the revocation or suspension. [~~Any license to~~  
19 ~~operate a health facility that has been revoked under this~~  
20 ~~section shall not be restored except by action of the~~  
21 ~~department.]"~~



1 SECTION 16. Section 323D-42, Hawaii Revised Statutes, is  
2 repealed.

3 [~~§323D-42 Review panel. There is established a review~~  
4 ~~panel for the purposes of reviewing applications for~~  
5 ~~certificates of need. The review panel shall be appointed by~~  
6 ~~the statewide council. The review panel shall include at least~~  
7 ~~one member from each county and a majority of the members shall~~  
8 ~~be consumers. Membership on the statewide council shall not~~  
9 ~~preclude membership on the review panel established in this~~  
10 ~~section.~~"]

11 SECTION 17. Section 323D-54, Hawaii Revised Statutes, is  
12 repealed.

13 [~~§323D-54 Exemptions from certificate of need~~  
14 ~~requirements. Nothing in this part or rules with respect to the~~  
15 ~~requirement for certificates of need applies to:~~

16 ~~(1) Offices of physicians, dentists, or other~~  
17 ~~practitioners of the healing arts in private practice~~  
18 ~~as distinguished from organized ambulatory health care~~  
19 ~~facilities, except in any case of purchase or~~  
20 ~~acquisition of equipment attendant to the delivery of~~  
21 ~~health care service and the instruction or supervision~~



- 1           ~~for any private office or clinic involving a total~~  
2           ~~expenditure in excess of the expenditure minimum;~~
- 3           ~~(2) Laboratories, as defined in section 321-11(12), except~~  
4           ~~in any case of purchase or acquisition of equipment~~  
5           ~~attendant to the delivery of health care service and~~  
6           ~~the instruction or supervision for any laboratory~~  
7           ~~involving a total expenditure in excess of the~~  
8           ~~expenditure minimum;~~
- 9           ~~(3) Dispensaries and first aid stations located within~~  
10           ~~business or industrial establishments and maintained~~  
11           ~~solely for the use of employees; provided such~~  
12           ~~facilities do not regularly provide inpatient or~~  
13           ~~resident beds for patients or employees on a daily~~  
14           ~~twenty-four-hour basis;~~
- 15           ~~(4) Dispensaries or infirmaries in correctional or~~  
16           ~~educational facilities;~~
- 17           ~~(5) Dwelling establishments, such as hotels, motels, and~~  
18           ~~rooming or boarding houses that do not regularly~~  
19           ~~provide health care facilities or health care~~  
20           ~~services;~~
- 21           ~~(6) Any home or institution conducted only for those who,~~  
22           ~~pursuant to the teachings, faith, or belief of any~~



- 1           ~~group, depend for healing upon prayer or other~~  
2           ~~spiritual means;~~
- 3           ~~(7) Dental clinics;~~
- 4           ~~(8) Nonpatient areas of care facilities such as parking~~  
5           ~~garages and administrative offices;~~
- 6           ~~(9) Bed changes that involve ten per cent or ten beds of~~  
7           ~~existing licensed bed types, whichever is less, of a~~  
8           ~~facility's total existing licensed beds within a two-~~  
9           ~~year period;~~
- 10          ~~(10) Projects that are wholly dedicated to meeting the~~  
11          ~~State's obligations under court orders, including~~  
12          ~~consent decrees, that have already determined that~~  
13          ~~need for the projects exists;~~
- 14          ~~(11) Replacement of existing equipment with its modern-day~~  
15          ~~equivalent;~~
- 16          ~~(12) Primary care clinics under the expenditure thresholds~~  
17          ~~referenced in section 323D-2;~~
- 18          ~~(13) Equipment and services related to that equipment, that~~  
19          ~~are primarily invented and used for research purposes~~  
20          ~~as opposed to usual and customary diagnostic and~~  
21          ~~therapeutic care;~~
- 22          ~~(14) Capital expenditures that are required:~~



1 ~~(A) To eliminate or prevent imminent safety hazards~~  
 2 ~~as defined by federal, state, or county fire,~~  
 3 ~~building, or life safety codes or regulations;~~

4 ~~(B) To comply with state licensure standards;~~

5 ~~(C) To comply with accreditation standards,~~  
 6 ~~compliance with which is required to receive~~  
 7 ~~reimbursements under Title XVIII of the Social~~  
 8 ~~Security Act or payments under a state plan for~~  
 9 ~~medical assistance approved under Title XIX of~~  
 10 ~~such Act;~~

11 ~~(15) Extended care adult residential care homes and~~  
 12 ~~assisted living facilities; or~~

13 ~~(16) Other facilities or services that the agency through~~  
 14 ~~the statewide council chooses to exempt, by rules~~  
 15 ~~pursuant to section 323D-62." ]~~

16 SECTION 18. Chapter 323D, part VII, Hawaii Revised  
 17 Statutes, is repealed.

18 [ "~~**PART VII.**~~ ] ~~**HOSPITAL ACQUISITION**~~

19 ~~**§323D-71 Definitions.**~~ For the purpose of this part,  
 20 unless the context requires otherwise:

21 "Acquisition" means any acquisition by a person or persons  
 22 of an ownership or controlling interest in a hospital, whether



1 ~~by purchase, merger, lease, gift, or otherwise, that results in~~  
2 ~~a change of ownership or control of twenty per cent or greater~~  
3 ~~or which results in the acquiring person or persons holding a~~  
4 ~~fifty per cent or greater interest in the ownership or control~~  
5 ~~of that hospital.~~

6 ~~"Agency" means the state health planning and development~~  
7 ~~agency.~~

8 ~~"Hospital" means an institution with an organized medical~~  
9 ~~staff, regulated under section 321-11(10) which admits patients~~  
10 ~~for inpatient care, diagnosis, observation, and treatment, but~~  
11 ~~does not include a public health facility under chapter 323F.~~

12 ~~"Person" has the meaning found in section 323D-2.~~

13 ~~**§323D-72 Acquisition of hospital.** (a) No person shall~~  
14 ~~engage in the acquisition of a hospital without first:~~

15 ~~(1) Applying for and receiving the approval of the agency;~~

16 ~~and~~

17 ~~(2) Notifying the attorney general and, if applicable,~~

18 ~~receiving approval from the attorney general pursuant~~

19 ~~to this part.~~

20 ~~(b) Any person not required to obtain the approval of the~~  
21 ~~agency under this part shall give the attorney general at least~~  
22 ~~ninety days prior notice of an impending acquisition, during~~





1 ~~which time the attorney general may take any necessary and~~  
2 ~~appropriate action consistent with general duties of oversight~~  
3 ~~with regard to the conduct of charities, if applicable. The~~  
4 ~~notice shall briefly describe the impending acquisition,~~  
5 ~~including any change in ownership of tangible or intangible~~  
6 ~~assets.~~

7 ~~(c) The application shall be submitted to the agency and~~  
8 ~~the attorney general on forms provided by the agency and shall~~  
9 ~~include:~~

10 ~~(1) The name of the seller, the name of the purchaser, and~~  
11 ~~the names of other parties to an acquisition;~~

12 ~~(2) The terms of the proposed agreement;~~

13 ~~(3) The sale price;~~

14 ~~(4) A copy of the acquisition agreement;~~

15 ~~(5) A financial and economic analysis and report from an~~  
16 ~~independent expert or consultant of the effect of the~~  
17 ~~acquisition under the criteria set forth in section~~  
18 ~~323D-76; and~~

19 ~~(6) All other related documents.~~

20 ~~A copy of the application and copies of all additional related~~  
21 ~~materials shall be submitted to the agency and to the attorney~~



1 ~~general at the same time. The applications and all related~~  
2 ~~documents shall be considered government records.~~

3 ~~**[§323D-73] Notice, procedures.** (a) Within five working~~  
4 ~~days after receipt of a complete application under section 323D-~~  
5 ~~72, the agency shall give public notice of the application in~~  
6 ~~the affected county or counties where the hospital is located~~  
7 ~~and shall notify by first class mail any person who has~~  
8 ~~requested notice of the filing of such applications. The public~~  
9 ~~notice shall state that a completed application has been~~  
10 ~~received, state the names of the parties to the agreement,~~  
11 ~~describe the contents of the application, and state the date by~~  
12 ~~which a person may submit written comments about the application~~  
13 ~~to the agency.~~

14 ~~(b) Within ninety days after receiving a complete~~  
15 ~~application, the agency shall review the application in~~  
16 ~~accordance with the standards set forth in this part and approve~~  
17 ~~or disapprove the acquisition.~~

18 ~~Within twenty days after receiving a complete application,~~  
19 ~~the attorney general shall determine whether a review of the~~  
20 ~~application in accordance with section 323D-76 is appropriate~~  
21 ~~and notify the applicant if a review is warranted. If the~~  
22 ~~attorney general determines that a review is unnecessary or not~~



1 ~~appropriate, then none of the other provisions of this part~~  
2 ~~applicable to review by the attorney general shall apply.~~

3 ~~(c) For acquisitions which require approval from the~~  
4 ~~agency under this part and a certificate of need, the applicant~~  
5 ~~shall submit a single application for both purposes and the~~  
6 ~~application shall be reviewed under a single unified review~~  
7 ~~process by the agency. Following the single unified review~~  
8 ~~process, the agency shall simultaneously issue its decision~~  
9 ~~regarding the certificate of need and its decision for purposes~~  
10 ~~of the sale of a hospital under this part.~~

11 ~~**[§323D-74] Hearings.** (a) The agency, after consultation~~  
12 ~~with the attorney general, shall, if appropriate, hold a public~~  
13 ~~hearing during the course of review, which hearing may be held~~  
14 ~~jointly with the certificate of need review panel or the~~  
15 ~~statewide health coordinating council, and in which any person~~  
16 ~~may file written comments and exhibits or appear and make a~~  
17 ~~statement. The agency or the attorney general may subpoena~~  
18 ~~additional information or witnesses, require and administer~~  
19 ~~oaths, require sworn statements, take depositions, and use~~  
20 ~~related discovery procedures for purposes of the hearing and at~~  
21 ~~any time prior to making a decision on the application.~~



1       ~~(b) The hearing shall be held no later than sixty days~~  
2 ~~after receipt of a complete application. The hearing shall be~~  
3 ~~held upon ten working days notice, not including days the~~  
4 ~~application is deemed to be incomplete.~~

5       ~~**[§323D-75] Review; decision; rules.** (a) The attorney~~  
6 ~~general shall conduct its review of the application in~~  
7 ~~accordance with the standards enumerated in section 323D-76.~~  
8 ~~Within ninety days after receipt of an application, the attorney~~  
9 ~~general shall review and approve or disapprove the acquisition.~~

10       ~~(b) If the attorney general does not act within ninety~~  
11 ~~days after receipt of an application, the application shall be~~  
12 ~~deemed approved. If the attorney general approves or~~  
13 ~~disapproves the acquisition, the applicant, or any person who~~  
14 ~~has submitted comments and has a legal interest in the hospital~~  
15 ~~being acquired or in another hospital that has contracted with~~  
16 ~~the acquired hospital for the provision of essential health~~  
17 ~~services, may bring an action for declaratory judgment for a~~  
18 ~~determination that the acquisition is or is not in the public~~  
19 ~~interest under the criteria set forth in section 323D-76.~~

20       ~~(c) The agency shall review the completed application in~~  
21 ~~accordance with the standards enumerated in section 323D-77.~~



1 ~~Within ninety days after receipt of a completed application, the~~  
2 ~~agency shall:~~

3 ~~(1) Approve the acquisition, with or without any specific~~  
4 ~~modifications; or~~

5 ~~(2) Disapprove the acquisition.~~

6 ~~The agency shall not make its decision subject to any condition~~  
7 ~~not directly related to criteria enumerated in section 323D-77,~~  
8 ~~and any condition or modification shall bear a direct and~~  
9 ~~rational relationship to the application under review.~~

10 ~~(d) Any affected person may appeal a final decision by the~~  
11 ~~agency to the reconsideration committee created under section~~  
12 ~~323D-47 under procedures substantially similar to those for~~  
13 ~~appeals of health care certificate of need decisions. The~~  
14 ~~reconsideration committee shall have the same powers and duties~~  
15 ~~with respect to appeals under this part as exist for appeals to~~  
16 ~~the reconsideration committee regarding issuance of certificates~~  
17 ~~of need. The findings, conclusions, and decisions of the~~  
18 ~~reconsideration committee shall constitute the determination of~~  
19 ~~the agency. The agency, the applicant, or any affected person~~  
20 ~~who has intervened in the matter before the reconsideration~~  
21 ~~committee may seek judicial review of any agency determination.~~



1       ~~(c) If both the agency and the attorney general review the~~  
2       ~~application, it shall not be granted unless it is approved by~~  
3       ~~both.~~

4       ~~§323D-76 Acquisition in the public interest; decision of~~  
5       ~~attorney general.~~ If the attorney general determines that a  
6       ~~review of the application is appropriate, the attorney general~~  
7       ~~shall approve the application unless the attorney general finds~~  
8       ~~that the acquisition is not in the public interest. An~~  
9       ~~acquisition of a private nonprofit hospital is not in the public~~  
10       ~~interest unless appropriate steps have been taken to safeguard~~  
11       ~~the value of charitable assets and ensure that any proceeds of~~  
12       ~~the transaction are used for appropriate charitable health care~~  
13       ~~purposes as provided in paragraph (8). In determining whether~~  
14       ~~the acquisition meets such criteria, the attorney general shall~~  
15       ~~consider, as applicable:~~

16       ~~(1) Whether the acquisition is permitted under chapter~~  
17       ~~414D governing nonprofit entities, trusts, or~~  
18       ~~charities;~~

19       ~~(2) Whether the hospital acted in a duly diligent manner~~  
20       ~~in deciding to sell, selecting the purchaser, and~~  
21       ~~negotiating the terms and conditions of the sale;~~



- 1       ~~(3) The procedures used by the seller in making its~~  
2           ~~decision, including whether appropriate expert~~  
3           ~~assistance was used;~~
- 4       ~~(4) Whether all conflicts of interest were disclosed,~~  
5           ~~including, but not limited to, conflicts of interest~~  
6           ~~related to board members of, executives of, and~~  
7           ~~experts retained by the seller, purchaser, or parties~~  
8           ~~to the acquisition;~~
- 9       ~~(5) Whether the seller will receive reasonably fair value~~  
10           ~~for its assets. The attorney general may employ, at~~  
11           ~~the seller's expense, reasonably necessary expert~~  
12           ~~assistance in making this determination;~~
- 13       ~~(6) Whether charitable funds are placed at unreasonable~~  
14           ~~risk, if the acquisition is financed in part by the~~  
15           ~~seller;~~
- 16       ~~(7) Whether any management contract under the acquisition~~  
17           ~~is for reasonably fair value;~~
- 18       ~~(8) Whether the sale proceeds will be used for appropriate~~  
19           ~~charitable health care purposes consistent with the~~  
20           ~~seller's original purpose or for the support and~~  
21           ~~promotion of health care in the affected community,~~



1 ~~and will be controlled as charitable funds independent~~  
2 ~~of the purchaser or parties to the acquisition; and~~  
3 ~~(9) Whether a right of first refusal to repurchase the~~  
4 ~~assets by a successor nonprofit corporation or~~  
5 ~~foundation has been retained, if the hospital is~~  
6 ~~subsequently sold to, acquired by, or merged with~~  
7 ~~another entity.~~

8 ~~**[\$323D-77] Acquisition; decision by agency.** In making a~~  
9 ~~decision whether to approve or disapprove an application, the~~  
10 ~~agency shall consider:~~

11 ~~(1) Whether sufficient safeguards are included to ensure~~  
12 ~~that the affected community has continued access to~~  
13 ~~affordable care;~~

14 ~~(2) Whether the purchaser and parties to the acquisition~~  
15 ~~have made a commitment to provide health care to the~~  
16 ~~disadvantaged, uninsured, and underinsured, and to~~  
17 ~~provide benefits to the affected community to promote~~  
18 ~~improved health care. Current and prior health care~~  
19 ~~activities and funding for those activities by the~~  
20 ~~seller or its successor nonprofit corporation or~~  
21 ~~foundation may be considered in evaluating compliance~~  
22 ~~with this commitment;~~





1 ~~(3) If health care providers will be offered the~~  
2 ~~opportunity to invest or own an interest in the~~  
3 ~~purchaser or a related entity to the purchaser; and~~

4 ~~(4) Whether procedures or safeguards are in place to avoid~~  
5 ~~conflict of interest in patient referral and the~~  
6 ~~nature of those procedures or safeguards.~~

7 ~~This section does not apply higher standards to hospitals~~  
8 ~~covered by this part than those applicable to hospitals not~~  
9 ~~covered by this part.~~

10 ~~**[\$323D-78] Revocation; hearing.** If the agency receives~~  
11 ~~information indicating that the acquiring person is not~~  
12 ~~fulfilling the commitment to the affected community under~~  
13 ~~section 323D-77, the agency shall hold a hearing upon ten days~~  
14 ~~notice to the affected parties. If after the hearing the agency~~  
15 ~~determines that the information is true, the department may~~  
16 ~~institute proceedings to revoke the license issued to the~~  
17 ~~purchaser.~~

18 ~~**[\$323D-79] Public interest.** The attorney general shall~~  
19 ~~have the authority to ensure compliance with commitments made~~  
20 ~~pursuant to section 323D-77.~~

21 ~~**[\$323D-80] License renewal.** No license to operate a~~  
22 ~~hospital may be issued or renewed by the department of health~~



1 ~~pursuant to this chapter, and a license which has been issued~~  
2 ~~shall be subject to revocation or suspension, if:~~

3 ~~(1) There is an acquisition of a hospital without first~~  
4 ~~having received the approval of the agency under this~~  
5 ~~part;~~

6 ~~(2) There is an acquisition of a hospital without the~~  
7 ~~approval of the attorney general, if the attorney~~  
8 ~~general determines that a review of the application is~~  
9 ~~appropriate under this part;~~

10 ~~(3) There is an acquisition of a hospital and the attorney~~  
11 ~~general disapproves the acquisition and there is a~~  
12 ~~judicial determination that the acquisition is not in~~  
13 ~~the public interest; or~~

14 ~~(4) The hospital is not fulfilling its commitment under~~  
15 ~~section 323D-77 or is not following procedures or~~  
16 ~~safeguards required under section 323D-77(4).~~

17 ~~This section does not limit the right to a hearing or the~~  
18 ~~right of appeal for a hospital from such decision.~~

19 ~~**[\$323D-81] Prior acquisitions.** Any acquisition of a~~  
20 ~~hospital before July 20, 1998 and any acquisition in which an~~  
21 ~~application for a certificate of need has been granted by the~~  
22 ~~agency before July 20, 1998 is not subject to this part.~~



1       ~~§323D-82 Maintenance of services.~~ A person who has  
2       ~~acquired or is engaged in the acquisition of a hospital shall~~  
3       ~~not substantially reduce or eliminate direct patient care~~  
4       ~~services at the hospital below the levels at which those~~  
5       ~~services were available at the time of the acquisition, without~~  
6       ~~first giving written notice of the planned reduction or~~  
7       ~~elimination to the agency and receiving the agency's approval,~~  
8       ~~prior to implementing the reduction or elimination of services.~~

9       ~~[§323D-83] Statutory authority.~~ No provision of this part  
10       ~~shall derogate from the common law or statutory authority of the~~  
11       ~~attorney general." ]~~

12       SECTION 19. (a) There shall be established a twelve-  
13       member certificate of need study blue ribbon panel. The members  
14       shall include the director of health and eleven members of the  
15       public. The public members shall be appointed as follows:

16           (1) Three persons shall be appointed by the president of  
17           the senate, of whom:

18                   (A) One shall be a licensed health care professional;

19                   (B) One shall be a representative of a licensed  
20                   health care facility; and

21                   (C) One shall have knowledge about health care  
22                   financing;



1           (2) Three persons shall be appointed by the speaker of the  
2           house of representatives, of whom:

3           (A) One shall be a licensed health care professional;

4           (B) One shall be a representative of a licensed  
5           health care facility; and

6           (C) One shall have knowledge about health care  
7           financing;

8           and

9           (3) Five persons shall be appointed by the governor, of  
10          whom:

11          (A) One shall be a licensed health care professional;

12          (B) One shall be a representative of a licensed  
13          health care facility; and

14          (C) Three shall have knowledge about health care  
15          financing.

16          Vacancies in the membership of the panel shall be filled in the  
17          same manner provided for the original appointments.

18          (b) The membership of the panel shall vote to elect a  
19          chairperson.

20          (c) The panel shall be entitled to request assistance and  
21          information from the employees of any state, county, or  
22          municipal department, board, bureau, commission, or agency as



1 may be required for its purposes. The department of health  
2 shall provide staff support for the panel.

3 (d) The panel shall conduct a comprehensive study to  
4 examine:

5 (1) Certificate of need processes in other states that  
6 have been modified or eliminated, and the effects of  
7 the modifications or elimination;

8 (2) What other states are doing to reform the certificate  
9 of need process; and

10 (3) The impact that modification or elimination of the  
11 certificate of need process may have on the state with  
12 regard to:

13 (A) Access to care by residents;

14 (B) Quality of care;

15 (C) Services that are delivered statewide or on a  
16 regional basis; and

17 (D) Funding, including programs such as medicaid.

18 (e) The panel shall submit a report to the legislature no  
19 later than twenty days prior to the convening of the regular  
20 session of 2008. The report shall include recommendations,  
21 including suggested legislation, if any, on:



- 1       (1) The panel's findings with regard to other state's
- 2             experiences with the certificate of need process;
- 3       (2) The future of Hawaii's certificate of need process;
- 4       (3) Which health care services or facilities, if any,
- 5             should continue to be subject to the certificate of
- 6             need requirements or other state regulation; and
- 7       (4) Which services or facilities should be exempt from
- 8             state regulation.

9       SECTION 20. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11       SECTION 21. This Act shall take effect on January 1, 2099.



**Report Title:**

Certificate of Need; Restructuring; Blue Ribbon Panel

**Description:**

Restructures the certificate of need (CON) requirements to: (1) reverse the order that the county and State councils hold hearings and make recommendations on CON applications and provide that, where the recommendation of the State council and the county council conflict, the ("SHPDA") Administrator shall give greater weight to the recommendation of the county council; (2) require that a hearing on a request for reconsideration from the denial of a CON be held on the island where the proposed medical facility is to be built or the medical activity is to occur; and (3) specify and narrow the types of medical facilities and medical activities that require a CON. Establishes a temporary blue ribbon panel to study the certificate of need process in other states and recommend changes or the abolishment of Hawaii's certificate of need process. (HB1067 HD1)

