

JAN 23 2008

A BILL FOR AN ACT

RELATING TO CERTIFICATE OF NEED.

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

1 SECTION 1. The legislature finds that the certificate of
2 need process has proven to be an impediment to the delivery of
3 needed medical services, and costly to medical facilities and
4 hospitals. Public Law 93-641, relating to the National Health
5 Planning and Resources Development Act of 1974, mandated the
6 enactment of a certificate of need process "to strengthen and
7 coordinate planning for personal health services and facilities
8 development" (Act 159, Session Laws of Hawaii 1975, section 1).
9 At that time it was believed that the greatest contributor to
10 the costs of medical services was the investment in costly
11 health care resources such as facilities and equipment.
12 However, the delivery of health care in Hawaii over the years
13 has evolved into the opposite situation: a shortage of health
14 care resources, particularly on the neighbor islands and rural
15 areas.
16 Public Law 93-641 was repealed in 1986, and since then
17 fourteen states have eliminated the certificate of need process



1 and twelve states have drastically limited the scope of the
2 requirement for a certificate of need.

3 The purpose of this Act is to clarify the applicability of
4 a certificate of need.

5 SECTION 2. Section 323D-2, Hawaii Revised Statutes, is
6 amended by adding four new definitions to be appropriately
7 inserted and to read as follows:

8 "Adult residential care homes" shall have the same meaning
9 as in section 321-15.1.

10 "Intermediate care facility" shall have the same meaning as
11 referenced in section 321-11.

12 "Nursing facility" shall have the same meaning as in
13 section 346E-1.

14 "Skilled nursing facility" shall have the same meaning as
15 referenced in section 321-11."

16 SECTION 3. Section 323D-54, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§323D-54 Exemptions from certificate of need**
19 **requirements.** Nothing in this part or rules with respect to the
20 requirement for certificates of need applies to:

21 (1) Offices of physicians, dentists, or other
22 practitioners of the healing arts in private practice



1 as distinguished from organized ambulatory health care
2 facilities [~~, except in any case of purchase or~~
3 ~~acquisition of equipment attendant to the delivery of~~
4 ~~health care service and the instruction or supervision~~
5 ~~for any private office or clinic involving a total~~
6 ~~expenditure in excess of the expenditure minimum] ;~~

7 (2) Laboratories, as defined in section 321-11(12) [~~7~~
8 ~~except in any case of purchase or acquisition of~~
9 ~~equipment attendant to the delivery of health care~~
10 ~~service and the instruction or supervision for any~~
11 ~~laboratory involving a total expenditure in excess of~~
12 ~~the expenditure minimum] ;~~

13 (3) Dispensaries and first aid stations located within
14 business or industrial establishments and maintained
15 solely for the use of employees; provided such
16 facilities do not regularly provide inpatient or
17 resident beds for patients or employees on a daily
18 twenty-four-hour basis;

19 (4) Dispensaries or infirmaries in correctional or
20 educational facilities;

21 (5) Dwelling establishments, such as hotels, motels, and
22 rooming or boarding houses that do not regularly



- 1 provide health care facilities or health care
2 services;
- 3 (6) Any home or institution conducted only for those who,
4 pursuant to the teachings, faith, or belief of any
5 group, depend for healing upon prayer or other
6 spiritual means;
- 7 (7) Dental clinics;
- 8 (8) Nonpatient areas of care facilities such as parking
9 garages and administrative offices;
- 10 (9) Bed changes that involve [~~ten per cent or ten beds of~~
11 ~~existing licensed bed types, whichever is less, of a~~
12 ~~facility's total existing licensed beds within a two-~~
13 ~~year period,~~] an increase in beds;
- 14 (10) Projects that are wholly dedicated to meeting the
15 State's obligations under court orders, including
16 consent decrees, that have already determined that
17 need for the projects exists;
- 18 (11) Replacement of existing equipment with its modern-day
19 equivalent[+], including the acquisition of new
20 equipment for existing or new services;
- 21 (12) Primary care clinics under the expenditure thresholds
22 referenced in section 323D-2;



- 1 (13) Equipment and services related to that equipment, that
2 are primarily invented and used for research purposes
3 as opposed to usual and customary diagnostic and
4 therapeutic care;
- 5 (14) Capital expenditures that are required:
- 6 (A) To eliminate or prevent imminent safety hazards
7 as defined by federal, state, or county fire,
8 building, or life safety codes or regulations;
- 9 (B) To comply with state licensure standards;
- 10 (C) To comply with accreditation standards,
11 compliance with which is required to receive
12 reimbursements under Title XVIII of the Social
13 Security Act or payments under a state plan for
14 medical assistance approved under Title XIX of
15 such Act;
- 16 (15) Extended care adult residential care homes [~~and~~],
17 adult residential care homes, assisted living
18 facilities [~~+~~ ~~or~~], intermediate care facilities,
19 skilled nursing facilities, and nursing facilities;
- 20 (16) New hospitals; or



1 [~~(16)~~] (17) Other facilities or services that the agency
2 through the statewide council chooses to exempt, by
3 rules pursuant to section 323D-62."

4 SECTION 4. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 5. This Act shall take effect upon its approval.

7

INTRODUCED BY: *Roy L. How*



Report Title:

Health; Certificate of Need

Description:

Exempts certain health care equipment acquisitions, additional beds, and long-term care facilities from requiring a certificate of need.

