

JAN 28 2009

A BILL FOR AN ACT

RELATING TO STATE HEALTH PLANNING.

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

1 SECTION 1. The purpose of this Act is to improve health
2 care in Hawaii by encouraging competition in the health care
3 field through the repeal of the certificate of need and the
4 hospital acquisition processes.

5 SECTION 2. Section 323D-12, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) The state agency shall:

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



1 services by health care providers whenever possible to
2 achieve economies and shall restrict unusual or
3 unusually costly services to individual facilities or
4 providers where appropriate;

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

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

14 ~~(4) Administer the state certificate of need program~~
15 ~~pursuant to part V]."~~

16 SECTION 3. Section 323D-13, Hawaii Revised Statutes, is
17 amended by amending subsection (e) to read as follows:

18 "(e) No member of the statewide council shall, in the
19 exercise of any function of the statewide council described in
20 section [~~323D-14(3),~~] 323D-14, vote on any matter before the
21 statewide council respecting any individual or entity with which
22 the member has or, within the twelve months preceding the vote,



1 had any substantial ownership, employment, medical staff,
2 fiduciary, contractual, creditor, or consultative relationship.
3 The statewide council shall require each of its members who has
4 or has had such a relationship with an individual or entity
5 involved in any matter before the statewide council to make a
6 written disclosure of the relationship before any action is
7 taken by the statewide council with respect to the matter in the
8 exercise of any function described in section 323D-14 and to
9 make the relationship public in any meeting in which the action
10 is to be taken."

11 SECTION 4. Section 323D-13.5, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[+]§323D-13.5[+] **Disqualification from position or**
14 **membership.** The chairpersons of the statewide health
15 coordinating council[,7] and the subarea health planning councils
16 [~~and the review panel,~~] shall not be employed by or married to
17 health care providers."

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

20 "§323D-14 **Functions; statewide health coordinating**
21 **council.** The statewide health coordinating council shall:



- 1 (1) Prepare and revise as necessary the state health
- 2 services and facilities plan;
- 3 (2) Advise the state agency on actions under section
- 4 323D-12; and
- 5 ~~[(3) Appoint the review panel pursuant to section 323D-42,~~
- 6 ~~and~~
- 7 ~~(4)] (3) Review and comment upon the [following actions by~~
- 8 ~~the state agency before such actions are made final.~~
- 9 ~~(A) The making of findings as to applications for~~
- 10 ~~certificate of need; and~~
- 11 ~~(B) The making of] state agency's findings as to the~~
- 12 appropriateness of [these] institutional and
- 13 noninstitutional health services offered in the
- 14 State[-] before the findings are made final."

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

17 **"§323D-18 Information required of providers.** Providers of
18 health care doing business in the State shall submit such
19 statistical and other reports of information related to health
20 and health care as the state agency finds necessary to the
21 performance of its functions. The information deemed necessary
22 [~~includes~~] shall include but is not limited to:



1 (1) Information regarding changes in the class of usage of
2 the bed complement of a health care facility [~~under~~
3 ~~section 323D-54(9)~~];

4 (2) Implementation of services [~~under section 323D-54~~];

5 (3) Projects that are wholly dedicated to meeting the
6 State's obligations under court orders, including
7 consent decrees [~~under section 323D-54(10)~~];

8 ~~(4) Replacement of existing equipment with an updated~~
9 ~~equivalent under section 323D-54(11)~~;

10 ~~(5) Primary care clinics under the expenditure thresholds~~
11 ~~under section 323D-54(12)]~~; and

12 ~~(6) Equipment]~~ (4) Information regarding equipment and
13 services [related to that equipment, that are
14 primarily intended for research purposes as opposed to
15 usual and customary diagnostic and therapeutic care."

16 SECTION 7. Section 323D-22, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§323D-22 Subarea health planning councils[~~7~~]; functions,
19 quorum and number of members necessary to take valid action.

20 (a) Each subarea health planning council shall review, seek
21 public input, and make recommendations relating to health



1 planning for the geographical subarea it serves. In addition,
2 the subarea health planning councils shall:

3 (1) Identify and recommend to the state agency and the
4 statewide health coordinating council the data needs
5 and special concerns of the respective subareas with
6 respect to the preparation of the state plan[-];

7 (2) Provide specific recommendations to the state agency
8 and the statewide health coordinating council
9 regarding the highest priorities for health services
10 and resources development [-];

11 (3) Review the state health services and facilities plan
12 as it relates to the respective subareas and make
13 recommendations to the state agency and the statewide
14 health coordinating council [-];

15 ~~[(4) Advise the state agency in the administration of the~~
16 ~~certificate of need program for their respective~~
17 ~~subareas.~~

18 ~~(5)]~~ (4) Advise the state agency on the cost of
19 reimbursable expenses incurred in the performance of
20 their functions for inclusion in the state agency
21 budget [-];

1 ~~[(6)]~~ (5) Advise the state agency in the performance of its
2 specific functions~~[-]~~;

3 ~~[(7)]~~ (6) Perform other such functions as agreed upon by
4 the state agency and the respective subarea
5 councils~~[-]~~; and

6 ~~[(8)]~~ (7) Each subarea health planning council shall
7 recommend for gubernatorial appointment at least one
8 person from its membership to be on the statewide
9 council.

10 (b) The number of members necessary to constitute a quorum
11 to do business shall consist of a majority of all the members
12 who have accepted nomination to the subarea health planning
13 council~~[-]~~ and have been confirmed and qualified as members of
14 the subarea health planning council. When a quorum is in
15 attendance, the concurrence of a majority of the members in
16 attendance shall make any action of the subarea health planning
17 council valid."

18 SECTION 8. Chapter 323D, part V, Hawaii Revised Statutes,
19 is repealed.

20 SECTION 9. Chapter 323D, part VII, Hawaii Revised
21 Statutes, is repealed.



1 SECTION 10. Section 323D-2, Hawaii Revised Statutes, is
2 amended by deleting the definitions of "applicant", "assisted
3 living facility", "capital expenditure", "certificate of need",
4 "construct", "expand", "alter", "convert", "develop",
5 "initiate", or "modify", "expenditure minimum", "extended care
6 adult residential care home", "organized ambulatory health care
7 facility", "primary care clinic", "review panel", and
8 "substantially modify, decrease, or increase the scope or type
9 of health service".

10 [~~"Applicant" means any person who applies for a
11 certificate of need under part V.~~

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



1 ~~management, monitoring, records management, arranging for,~~
2 ~~and/or coordinating health and social services.~~

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

9 ~~(1) Cost of studies, surveys, designs, plans, working~~
10 ~~drawings, specifications, and other preliminaries~~
11 ~~necessary for construction, expansion, alteration,~~
12 ~~conversion, development, initiation, or modification,~~

13 ~~(2) Fair market values of facilities and equipment~~
14 ~~obtained by donation or lease or comparable~~
15 ~~arrangements as though the items had been acquired by~~
16 ~~purchase; and~~

17 ~~(3) Fair market values of facilities and equipment~~
18 ~~transferred for less than fair market value, if a~~
19 ~~transfer of the facilities or equipment at fair market~~
20 ~~value would be subject to review under section~~
21 ~~323D-43.~~



1 ~~"Certificate of need" means an authorization, when required~~
2 ~~pursuant to section 323D-43, to construct, expand, alter, or~~
3 ~~convert a health care facility or to initiate, expand, develop,~~
4 ~~or modify a health care service.~~

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

- 18 ~~(1) Result in a total capital expenditure in excess of the~~
19 ~~expenditure minimum,~~
- 20 ~~(2) Substantially modify, decrease, or increase the scope~~
21 ~~or type of health service rendered, or~~



1 ~~(3) Increase, decrease, or change the class of usage of~~
2 ~~the bed complement of a health care facility.~~

3 ~~"Expenditure minimum" means \$4,000,000 for capital~~
4 ~~expenditures, \$1,000,000 for new or replacement medical~~
5 ~~equipment and \$400,000 for used medical equipment.~~

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

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

19 ~~(2) Type II home shall consist of six or more unrelated~~
20 ~~persons and one or more persons may be extended care~~
21 ~~adult residential care home residents.~~



1 ~~"Organized ambulatory health care facility" means a~~
2 ~~facility not part of a hospital, which is organized and operated~~
3 ~~to provide health services to outpatients. The state agency may~~
4 ~~adopt rules to establish further criteria for differentiating~~
5 ~~between the private practice of medicine and organized~~
6 ~~ambulatory health care facilities.~~

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

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

19 ~~"Review panel" means the panel established pursuant to~~
20 ~~section 323D 42.~~

21 ~~"Substantially modify, decrease, or increase the scope or~~
22 ~~type of health service" refers to the establishment of a new~~



1 ~~health care facility or health care service or the addition of a~~
 2 ~~clinically related (i.e., diagnostic, curative, or~~
 3 ~~rehabilitative) service not previously provided or the~~
 4 ~~termination of such a service which had previously been~~
 5 ~~provided."]~~

6 SECTION 11. Statutory material to be repealed is bracketed
 7 and stricken. New statutory material is underscored.

8 SECTION 12. This Act shall take effect upon its approval.
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INTRODUCED BY: *[Signature]*

J. Kalani Eggen

Randy H. Baker

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Report Title:

Certificate of Need; Hospital Acquisition; Repeal

Description:

Repeals the certificate of need and the hospital acquisition processes.

