

JAN 21 2011

A BILL FOR AN ACT

RELATING TO HEALTH.

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

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

3 "**§323D-2 Definitions.** As used in this chapter:

4 ~~["Applicant" means any person who applies for a certificate~~
5 ~~of need under part V.]~~

6 "Assisted living facility" means a combination of housing,
7 health care services, and personalized support services designed
8 to respond to individual needs, and to promote choice,
9 responsibility, independence, privacy, dignity, and
10 individuality. In this context, "health care services" means
11 the provision of services in an assisted living facility that
12 assists the resident in achieving and maintaining the highest
13 state of positive well-being (i.e., psychological, social,
14 physical, and spiritual) and functional status. This may
15 include nursing assessment and monitoring, and the delegation of
16 nursing tasks by registered nurses pursuant to chapter 457, care
17 management, monitoring, records management, arranging for,
18 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]~~ on 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~~
21 ~~required pursuant to section 323D-43, to construct, expand,~~



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

- 16 (1) Result in a total capital expenditure in excess of the
17 expenditure minimum,
18 (2) Substantially modify, decrease, or increase the scope
19 or type of health service rendered, or
20 (3) Increase, decrease, or change the class of usage of
21 the bed complement of a health care facility.



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

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

- 14 (1) Type I home shall consist of five or less unrelated
15 persons with no more than two extended care adult
16 residential care home residents; and
17 (2) Type II home shall consist of six or more unrelated
18 persons and one or more persons may be extended care
19 adult residential care home residents.

20 "Health" includes physical and mental health.

21 "Health care facility" and "health care service" include
22 any program, institution, place, building, or agency, or portion



1 thereof, private or public, other than federal facilities or
2 services, whether organized for profit or not, used, operated,
3 or designed to provide medical diagnosis, treatment, nursing,
4 rehabilitative, or preventive care to any person or persons.
5 The terms include, but are not limited to, health care
6 facilities and health care services commonly referred to as
7 hospitals, extended care and rehabilitation centers, nursing
8 homes, skilled nursing facilities, intermediate care facilities,
9 hospices for the terminally ill that require licensure or
10 certification by the department of health, kidney disease
11 treatment centers including freestanding hemodialysis units,
12 outpatient clinics, organized ambulatory health care facilities,
13 emergency care facilities and centers, home health agencies,
14 health maintenance organizations, and others providing similarly
15 organized services regardless of nomenclature.

16 "Health care provider" means a health care facility,
17 physician, dentist licensed under chapter 448, chiropractor
18 licensed under chapter 442, optometrist licensed under chapter
19 459, podiatrist licensed under chapter 463E, psychologist
20 licensed under chapter 465, occupational therapist subject to
21 chapter 457G, and physical therapist licensed under chapter
22 461J.



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 "Person" means an individual or a natural person, a trust
8 or estate, a society, a firm, an assembly, a partnership, a
9 corporation, a professional corporation, an association, the
10 State, any political subdivision of the State, a county, a state
11 agency or any instrumentality of the State, a county agency or
12 any instrumentality of a county.

13 "Physician" means a doctor of medicine or osteopathy who is
14 legally authorized to practice medicine and surgery by the
15 State.

16 "Primary care clinic" means a clinic for outpatient
17 services providing all preventive and routine health care
18 services, management of chronic diseases, consultation with
19 specialists when necessary, and coordination of care across
20 health care settings or multiple providers or both. Primary
21 care clinic providers include:

22 (1) General or family practice physicians;



- 1 (2) General internal medicine physicians;
- 2 (3) Pediatricians;
- 3 (4) Obstetricians and gynecologists;
- 4 (5) Physician assistants; and
- 5 (6) Advanced practice registered nurses.

6 ~~["Review panel" means the panel established pursuant to~~
7 ~~section 323D-42.]~~

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

10 "State health services and facilities plan" means the
11 comprehensive plan for the economical delivery of health
12 services in the State prepared by the statewide council.

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

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

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

19 "Substantially modify, decrease, or increase the scope or
20 type of health service" refers to the establishment of a new
21 health care facility or health care service or the addition of a
22 clinically related (i.e., diagnostic, curative, or



1 rehabilitative) service not previously provided or the
2 termination of such a service which had previously been
3 provided."

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

6 "(a) The state agency shall:

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

21 (2) Serve as staff to and provide technical assistance and
22 advice to the statewide council and the subarea



1 councils in the preparation, review, and revision of
2 the state health services and facilities plan; and
3 (3) Conduct the health planning activities of the State in
4 coordination with the subarea councils, implement the
5 state health services and facilities plan, and
6 determine the statewide health needs of the State
7 after consulting with the statewide council~~;~~ and
8 ~~(4) Administer the state certificate of need program~~
9 ~~pursuant to part V]."~~

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

12 "(e) No member of the statewide council shall, in the
13 exercise of any function of the statewide council described in
14 section [~~323D-14(3)~~] 323D-14, vote on any matter before the
15 statewide council respecting any individual or entity with which
16 the member has or, within the twelve months preceding the vote,
17 had any substantial ownership, employment, medical staff,
18 fiduciary, contractual, creditor, or consultative relationship.
19 The statewide council shall require each of its members who has
20 or has had such a relationship with an individual or entity
21 involved in any matter before the statewide council to make a
22 written disclosure of the relationship before any action is

1 taken by the statewide council with respect to the matter in the
2 exercise of any function described in section 323D-14 and to
3 make the relationship public in any meeting in which the action
4 is to be taken."

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

7 "~~§323D-14~~ **Functions; statewide health coordinating**
8 **council.** The statewide council shall:

9 (1) Prepare and revise as necessary the state health
10 services and facilities plan;

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

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

15 ~~(4)]~~ (3) Review and comment upon [~~the following actions by~~
16 ~~the state agency before such actions are made final:~~

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

19 ~~(B) The making of findings as to] the appropriateness~~

20 of those institutional and noninstitutional

21 health services offered in the State."



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

3 "~~§323D-18~~ **Information required of providers.** Providers of
4 health care doing business in the State shall submit such
5 statistical and other reports of information related to health
6 and health care as the state agency finds necessary to the
7 performance of its functions. The information deemed necessary
8 includes but is not limited to:

- 9 (1) Information regarding changes in the class of usage of
10 the bed complement of a health care facility [~~under~~
11 ~~section 323D-54(9)~~];
- 12 (2) Implementation of services [~~under section 323D-54~~];
- 13 (3) Projects that are wholly dedicated to meeting the
14 State's obligations under court orders, including
15 consent decrees [~~, under section 323D-54(10)~~];
- 16 (4) Replacement of existing equipment with an updated
17 equivalent [~~under section 323D-54(11)~~];
- 18 (5) Primary care clinics under the expenditure [~~thresholds~~
19 ~~under section 323D-54(12)~~] minimums as defined in
20 323D-2; and
- 21 (6) Equipment and services related to that equipment, that
22 are primarily intended for research purposes as



1 opposed to usual and customary diagnostic and
2 therapeutic care."

3 SECTION 6. Section 323D-22, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Each subarea health planning council shall review,
6 seek public input, and make recommendations relating to health
7 planning for the geographical subarea it serves. In addition,
8 the subarea health planning councils shall:

9 (1) Identify and recommend to the state agency and the
10 council the data needs and special concerns of the
11 respective subareas with respect to the preparation of
12 the state plan[-];

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

16 (3) Review the state health services and facilities plan
17 as it relates to the respective subareas and make
18 recommendations to the state agency and the
19 council[-];

20 ~~[-(4) Advise the state agency in the administration of the~~
21 ~~certificate of need program for their respective~~
22 ~~subareas.~~



1 ~~(5)~~ (4) Advise the state agency on the cost of
 2 reimbursable expenses incurred in the performance of
 3 their functions for inclusion in the state agency
 4 budget ~~[]~~;

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

7 ~~[(7)]~~ (6) Perform other such functions as agreed upon by the
 8 state agency and the respective subarea councils ~~[]~~;
 9 and

10 ~~[(8)]~~ (7) Each subarea health planning council shall recommend
 11 for gubernatorial appointment at least one person from
 12 its membership to be on the statewide council."

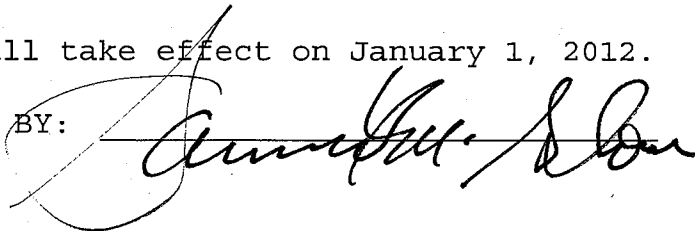
13 SECTION 7. Chapter 323D, Part V, Hawaii Revised Statutes,
 14 is repealed.

15 SECTION 8. Chapter 323D, Part VII, Hawaii Revised
 16 Statutes, is repealed.

17 SECTION 9. Statutory material to be repealed is bracketed
 18 and stricken. New statutory material is underscored.

19 SECTION 10. This Act shall take effect on January 1, 2012.

INTRODUCED BY:



Report Title:

Certificate of Need; Hospital Acquisition; SHPDA

Description:

Repeals the certificate of need process and the law relating to hospital acquisition.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

