H.B. NO. ²²⁴ H.D. 1 S.D. 2 C.D. 1

A BILL FOR AN ACT

RELATING TO THE STATE HEALTH PLANNING AND DEVELOPMENT AGENCY.

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

1 SECTION 1. Section 323D-12, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "\$323D-12 Health planning and development functions; state
4 agency[-]; department of health. (a) The state agency or
5 department of health shall:

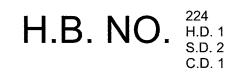
6 Have as a principal function the responsibility for (1)7 promoting accessibility for all the people of the 8 State to quality health care services at reasonable 9 cost. The state agency or department of health shall 10 conduct such studies and investigations as may be 11 necessary as to the causes of health care costs 12 including inflation. The state agency or department 13 of health 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 or department of health shall promote the 17 sharing of facilities or services by health care

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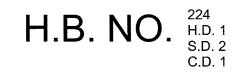
1		providers whenever possible to achieve economies and
2		shall restrict unusual or unusually costly services to
3		individual facilities or providers where appropriate;
4	(2)	Serve as staff to and provide technical assistance and
5		advice to the statewide council and the subarea
6		councils in the preparation, review, and revision of
7		the state health services and facilities plan;
8	(3)	Conduct the health planning activities of the State in
9		coordination with the subarea councils, implement the
10		state health services and facilities plan, and
11		determine the statewide health needs of the State
12		after consulting with the statewide council; [and]
13	(4)	Administer the state certificate of need program
14		pursuant to part $V[-]$; and
15	(5)	Prepare and revise as necessary the state health
16		services and facilities plan every five years.
17	(b)	The state agency or the department of health may:
18	(1)	Prepare such reports and recommendations on Hawaii's
19		health care costs and public or private efforts to
20		reduce or control costs and health care quality as it
21		deems necessary. The report may include[$_{ au}$] but not be

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1		limited to[$ au$] a review of health insurance plans, the
2		availability of various kinds of health insurance and
3		malpractice insurance to consumers, and strategies for
4		increasing competition in the health insurance field[-
5	(2)	Prepare and revise as necessary the state health
6		services and facilitics plan.];
7	[(3)]	(2) Prepare, review, and revise the annual
8		<pre>implementation plan[-];</pre>
9	[-(4)-]	(3) Assist the statewide council in the performance
10		of its functions[-];
11	[(5)]	(4) Determine the need for new health services
12		proposed to be offered within the State[-];
13	[(6)]	(5) Assess existing health care services and
14		facilities to determine whether there are redundant,
15		excessive, or inappropriate services or facilities and
16		make public findings of any that are found to be so.
17		The state agency shall weigh the costs of the health
18		care services or facilities against the benefits the
19		services or facilities provide and there shall be a
20		negative presumption against marginal services[$ \cdot$] $;$

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1	[(7)]	(6) Provide technical assistance to persons, public
2		or private, in obtaining and filling out the necessary
3		forms for the development of projects and programs[\cdot];
4	[(8)]	(7) Prepare reports, studies, and recommendations on
5		emerging health issues, such as medical ethics, health
6		care rationing, involuntary care, care for the
7		indigent, and standards for research and development
8		of biotechnology and genetic engineering $[-]$; and
9	[(9)]	(8) Conduct such other activities as are necessary to
10		meet the purposes of this chapter."
11	SECTI	CON 2. Section 323D-12.6, Hawaii Revised Statutes, is
12	amended to	o read as follows:
13	"[[]§	323D-12.6[]] State health planning and development
14	special fu	and; created; deposits; expenditures; fees. (a) There
15	is establi	shed within the state treasury, to be administered by
16	the state	health planning and development agency, the state
17	health pla	anning and development special fund into which shall be
18	deposited	all moneys collected under <u>this</u> chapter $[323D]$.
19	(b)	Moneys in the special fund shall be expended by the
20	state heal	Ith planning and development agency to assist in
21		g program expenses of the agency.

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(c) All unencumbered and unexpended moneys in excess of
 \$2,000,000 remaining on balance in the special fund at the close
 of June 30 of each year shall lapse to the credit of the general
 fund.

5 [(c)] (d) The agency shall adopt rules in accordance with 6 chapter 91 to establish reasonable fees for the purposes of this 7 chapter."

8 SECTION 3. Section 323D-50, Hawaii Revised Statutes, is9 amended to read as follows:

"\$323D-50 Certificates of need, penalties. (a) Any
person who violates any provision of this part, or rules
thereunder, with respect to the requirement for certificate of
need shall be guilty of a misdemeanor for each seven-day period
or fraction thereof that the violation continues. Each
subsequent seven-day period shall constitute a separate offense.

(b) Any license to operate a health facility may be
revoked or suspended by the department of health at any time in
a proceeding before the department for any person proceeding
with an action covered under section 323D-43 without a
certificate of need. If any such license is revoked or
suspended by the department, the holder of the license shall be

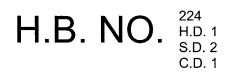
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notified in writing by the department of the revocation or
 suspension. Any license to operate a health facility that has
 been revoked under this section shall not be restored except by
 action of the department.

5 Any person who violates any provision of this chapter (C) 6 or rules adopted under this chapter, with respect to the 7 agency's requests for reporting, may be subject to an 8 administrative penalty not to exceed \$2,000 for each seven-day 9 period or fraction thereof that the violation continues. The 10 administrator of the state agency may impose the administrative 11 penalty specified in this section by order; provided that no 12 penalty shall be assessed unless the person charged shall have 13 been given notice and an opportunity for a hearing pursuant to 14 chapter 91. The administrative penalty contained in the notice 15 of finding of violation shall become a final order unless, 16 within twenty days of receipt of the notice, the person charged 17 makes a written request for a hearing. For any judicial 18 proceeding to recover the administrative penalty imposed, the 19 administrator need only show that notice was given, a hearing 20 was held or the time granted for requesting a hearing has

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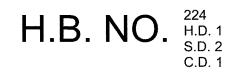


1	expired without such a request, the administrative penalty was
2	imposed, and that the penalty remains unpaid.
3	(d) Any person who violates or fails to act in compliance
4	with an approved certificate of need granted by the state agency
5	may be subject to an administrative penalty not to exceed \$5,000
6	for each seven-day period or fraction thereof that the violation
7	continues."
8	SECTION 4. Section 323D-54, Hawaii Revised Statutes, is
9	amended to read as follows:
10	"§323D-54 Exemptions from certificate of need
11	requirements. Nothing in this part or rules with respect to the
11 12	requirements . Nothing in this part or rules with respect to the requirement for certificates of need applies to:
12	requirement for certificates of need applies to:
12 13	requirement for certificates of need applies to: (1) Offices of physicians, dentists, or other
12 13 14	requirement for certificates of need applies to: (1) Offices of physicians, dentists, or other practitioners of the healing arts in private practice
12 13 14 15	requirement for certificates of need applies to: (1) Offices of physicians, dentists, or other practitioners of the healing arts in private practice as distinguished from organized ambulatory health care
12 13 14 15 16	<pre>requirement for certificates of need applies to: (1) Offices of physicians, dentists, or other practitioners of the healing arts in private practice as distinguished from organized ambulatory health care facilities, except in any case of purchase or</pre>
12 13 14 15 16 17	<pre>requirement for certificates of need applies to: (1) Offices of physicians, dentists, or other practitioners of the healing arts in private practice as distinguished from organized ambulatory health care facilities, except in any case of purchase or acquisition of equipment attendant to the delivery of</pre>

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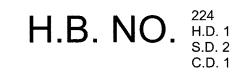
1	(2)	Laboratories, as defined in section 321-11(12), except
2		in any case of purchase or acquisition of equipment
3		attendant to the delivery of health care service and
4		the instruction or supervision for any laboratory
5		involving a total expenditure in excess of the
6		expenditure minimum;
7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

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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
9		two-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;

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1	(14)	Capital expenditures that are required:
2		(A) To eliminate or prevent imminent safety hazards
3		as defined by federal, state, or county fire,
4		building, or life safety codes or regulations;
5		(B) To comply with state licensure standards; <u>or</u>
6		(C) To comply with accreditation standards,
7		compliance with which is required to receive
8		reimbursements under Title XVIII of the Social
9		Security Act or payments under a state plan for
10		medical assistance approved under Title XIX of
11		such Act;
12	(15)	Extended care adult residential care homes and
13		assisted living facilities; [or]
14	(16)	Psychiatric services; provided that for purposes of
15		this paragraph, "psychiatric services" means services
16		for the diagnosis and treatment of mental illness or
17		mental disorders in persons;
18	(17)	Chronic renal dialysis services; provided that for
19		purposes of this paragraph, "chronic renal dialysis
20		services" means services for the treatment of
21		irreversible kidney failure involving the removal of

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1	waste substance from a patient's blood by hemodialysis
2	or peritoneal dialysis; or
3	[(16)] <u>(18)</u> Other facilities or services that the agency
4	through the statewide council chooses to exempt, by
5	rules pursuant to section 323D-62."
6	SECTION 5. (a) The department of health shall conduct a
7	study to assess the efficacy of sections 1 through 4 of this Act
8	in accomplishing the department's cost saving goals and any
9	other effects this Act has had on the certificate of need
10	program and the general health care community.
11	(b) The department of health shall submit a report of its
12	findings and recommendations, including any proposed
13	legislation, to the legislature no later than twenty days prior
14	to the convening of the regular session of 2027.
15	SECTION 6. Statutory material to be repealed is bracketed
16	and stricken. New statutory material is underscored.
17	SECTION 7. This Act shall take effect on July 1, 2021;
18	provided that this Act shall be repealed on July 1, 2026.

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Report Title:

DOH; Certificates of Need; State Health Planning and Development Agency; Exemptions; Penalties; Study

Description:

Authorizes the department of health to perform the duties required of the state health planning and development agency. Requires the state health planning and development agency or department of health to update the state health services and facilities plan every five years. Transfers moneys in excess of \$2,000,000 in the state health planning and development special fund to the general fund at the end of each fiscal year. Authorizes administrative penalties for persons who do not comply with an approved certificate of need. Exempts chronic renal dialysis services and psychiatric services from the certificate of need requirements. Requires the department of health to conduct a study on the efficacy of the measure after its repeal. Sunsets 7/1/2026. (CD1)

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