
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 by the repeal of the certificate of need process.

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



- 1 unusually costly services to individual facilities or
2 providers where 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; and
- 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 SECTION 3. Section 323D-13, Hawaii Revised Statutes, is
15 amended by amending subsection (e) to read as follows:

16 "(e) No member of the statewide council [~~shall~~], in the
17 exercise of any function of the statewide council described in
18 section [~~323D-14(3),~~] 323D-14, shall vote on any matter before
19 the statewide council respecting any individual or entity with
20 which the member has or, within the twelve months preceding the
21 vote, had any substantial ownership, employment, medical staff,
22 fiduciary, contractual, creditor, or consultative relationship.



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

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

11 "[+]§323D-13.5[+] **Disqualification from position or**
12 **membership.** The chairpersons of the statewide council[-] and
13 the subarea health planning councils [~~and the review panel,~~]
14 shall not be employed by or married to health care providers."

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

17 "**§323D-14 Functions; statewide health coordinating**
18 **council.** The statewide health coordinating council shall:

- 19 (1) Prepare and revise as necessary the state health
20 services and facilities plan;
- 21 (2) Advise the state agency on actions under section
22 323D-12; and



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

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

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

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



1 (3) Projects that are wholly dedicated to meeting the
 2 State's obligations under court orders, including
 3 consent decrees [~~under section 323D-54(10)~~]; and
 4 ~~[(4) Replacement of existing equipment with an updated~~
 5 ~~equivalent under section 323D-54(11);~~
 6 ~~(5) Primary care clinics under the expenditure thresholds~~
 7 ~~under section 323D-54(12); and~~
 8 ~~(6) Equipment]~~ (4) Information regarding equipment and
 9 services [~~related to that equipment,~~] that are
 10 primarily intended for research purposes as opposed to
 11 usual and customary diagnostic and therapeutic care."

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

14 "**§323D-22 Subarea health planning councils**~~[7]~~**;** functions,
 15 **quorum and number of members necessary to take valid action.**

16 (a) Each subarea health planning council shall review, seek
 17 public input, and make recommendations relating to health
 18 planning for the geographical subarea it serves. In addition,
 19 the subarea health planning councils shall:

20 (1) Identify and recommend to the state agency and the
 21 statewide council the data needs and special concerns



- 1 of the respective subareas with respect to the
2 preparation of the state plan[-];
3 (2) Provide specific recommendations to the state agency
4 and the statewide council regarding the highest
5 priorities for health services and resources
6 development[-];
7 (3) Review the state health services and facilities plan
8 as it relates to the respective subareas and make
9 recommendations to the state agency and the statewide
10 council[-];
11 [~~(4)~~] ~~Advise the state agency in the administration of the~~
12 ~~certificate of need program for their respective~~
13 ~~subareas.~~
14 ~~(5)]~~ (4) Advise the state agency on the cost of
15 reimbursable expenses incurred in the performance of
16 their functions for inclusion in the state agency
17 budget[-];
18 [~~(6)~~] (5) Advise the state agency in the performance of its
19 specific functions[-];
20 [~~(7)~~] (6) Perform other such functions as agreed upon by
21 the state agency and the respective subarea health
22 planning councils[-]; and



1 ~~[(8)]~~ (7) Each subarea health planning council shall
2 recommend for gubernatorial appointment at least one
3 person from its membership to be on the statewide
4 council.

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

13 SECTION 8. Section 323D-2, Hawaii Revised Statutes, is
14 amended by repealing the definitions of "applicant"; "assisted
15 living facility"; "capital expenditure"; "certificate of need";
16 "construct", "expand", "alter", "convert", "develop",
17 "initiate", or "modify"; "expenditure minimum"; "extended care
18 adult residential care home"; "organized ambulatory health care
19 facility"; "primary care clinic"; "review panel"; and
20 "substantially modify, decrease, or increase the scope or type
21 of health service".



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

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

16 ~~"Capital expenditure" means any purchase or transfer of~~
17 ~~money or anything of value or enforceable promise or agreement~~
18 ~~to purchase or transfer money or anything of value incurred by~~
19 ~~or in behalf of any person for construction, expansion,~~
20 ~~alteration, conversion, development, initiation, or modification~~
21 ~~as defined in this section. The term includes the:~~



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

14 ~~"Certificate of need" means an authorization, when required~~
15 ~~pursuant to section 323D 43, to construct, expand, alter, or~~
16 ~~convert a health care facility or to initiate, expand, develop,~~
17 ~~or modify a health care service.~~

18 ~~"Construct", "expand", "alter", "convert", "develop",~~
19 ~~"initiate", or "modify" includes the erection, building,~~
20 ~~reconstruction, modernization, improvement, purchase,~~
21 ~~acquisition, or establishment of a health care facility or~~
22 ~~health care service; the purchase or acquisition of equipment~~



1 ~~attendant to the delivery of health care service and the~~
2 ~~instruction or supervision therefor; the arrangement or~~
3 ~~commitment for financing the offering or development of a health~~
4 ~~care facility or health care service; any obligation for a~~
5 ~~capital expenditure by a health care facility; and studies,~~
6 ~~surveys, designs, plans, working drawings, specifications,~~
7 ~~procedures, and other actions necessary for any such~~
8 ~~undertaking, which will:~~

- 9 (1) ~~Result in a total capital expenditure in excess of the~~
10 ~~expenditure minimum,~~
- 11 (2) ~~Substantially modify, decrease, or increase the scope~~
12 ~~or type of health service rendered, or~~
- 13 (3) ~~Increase, decrease, or change the class of usage of~~
14 ~~the bed complement of a health care facility.~~

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

18 ~~"Extended care adult residential care home" means an adult~~
19 ~~residential care home providing twenty four hour living~~
20 ~~accommodation for a fee, for adults unrelated to the licensee.~~
21 ~~The primary caregiver shall be qualified to provide care to~~
22 ~~nursing facility level individuals who have been admitted to a~~



1 ~~medicaid waiver program, or persons who pay for care from~~
2 ~~private funds and have been certified for this type of facility.~~
3 ~~There shall be two categories of extended care adult residential~~
4 ~~care homes, which shall be licensed in accordance with rules~~
5 ~~adopted by the department of health.~~

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

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

12 ~~"Organized ambulatory health care facility" means a~~
13 ~~facility not part of a hospital, which is organized and operated~~
14 ~~to provide health services to outpatients. The state agency may~~
15 ~~adopt rules to establish further criteria for differentiating~~
16 ~~between the private practice of medicine and organized~~
17 ~~ambulatory health care facilities.~~

18 ~~"Primary care clinic" means a clinic for outpatient~~
19 ~~services providing all preventive and routine health care~~
20 ~~services, management of chronic diseases, consultation with~~
21 ~~specialists when necessary, and coordination of care across~~



1 ~~health care settings or multiple providers or both. Primary~~
2 ~~care clinic providers include:~~

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

9 ~~"Review panel" means the panel established pursuant to~~
10 ~~section 323D-42.~~

11 ~~"Substantially modify, decrease, or increase the scope or~~
12 ~~type of health service" refers to the establishment of a new~~
13 ~~health care facility or health care service or the addition of a~~
14 ~~clinically related (i.e., diagnostic, curative, or~~
15 ~~rehabilitative) service not previously provided or the~~
16 ~~termination of such a service which had previously been~~
17 ~~provided."]~~

18 SECTION 9. Chapter 323D, part V, Hawaii Revised Statutes,
19 is repealed.

20 SECTION 10. Chapter 323D, part VII, Hawaii Revised
21 Statutes, is repealed.



1 SECTION 11. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 12. This Act shall take effect upon its approval.

4

INTRODUCED BY:

Calvin K. Say

BY REQUEST

JAN 22 2008



Report Title:

Certificate of Need; Repeal

Description:

Repeals certificate of need process and the law governing acquisition of hospitals in relation to state health planning.

