
A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. The legislature finds that there is a shortage
2 of healthcare professionals in the State, and that this shortage
3 is especially acute in rural areas. According to the federal
4 Health Resources and Services Administration, an entity of the
5 United States Department of Health and Human Services, there
6 were 17,657 geographic areas, populations, and facilities
7 designated as having too few primary care, dental, and mental
8 health care providers.

9 In Hawaii, the Health Resources and Services Administration
10 reported that the counties of Hawaii and Maui each have an
11 average deficiency of twenty-five full-time healthcare service
12 professionals, while the county of Kauai has a shortage of
13 thirteen full-time healthcare service professionals. These
14 shortages are expected to worsen as physicians and nurses
15 working in rural areas retire faster than new healthcare
16 recruits can replace them. Simultaneously, the population in
17 the State's rural areas has increased in recent years, even as



1 the State's overall population has seen a decline. These two
2 factors combined will lead to a worsening of the ratio between
3 healthcare professionals to patients. The legislature
4 recognizes that as this ratio worsens, so may patient quality of
5 care.

6 To counteract this trend, there is a demand for an increase
7 in healthcare facilities in the State's rural areas. However,
8 each new healthcare facility that opens must hire qualified
9 healthcare professionals to staff the facility. Unfortunately,
10 this often results in the new facility seeking to hire
11 professionals from existing facilities in the local area.

12 The legislature finds that recruitment of this nature may
13 negatively impact the quality of medical care at existing
14 facilities by increasing the ratio of healthcare professionals
15 to patients and forcing the facility to increase overtime or
16 hire temporary staff to cover the resulting staffing shortfall.
17 The legislature recognizes that there is a demand for expanded
18 healthcare services in rural areas; however, the legislature
19 also recognizes that policies must be adopted to protect the
20 viability and quality of existing healthcare services while not
21 restricting the ability of new healthcare facilities to open in



1 rural areas. The legislature further finds that the state
2 health planning and development agency currently does not
3 specifically address this issue through its certificate of need
4 program.

5 Accordingly, the purpose of this Act is to provide existing
6 hospitals and dialysis facilities in rural communities with the
7 right of first refusal to internally expand their facilities to
8 address the needs of their communities prior to issuing a
9 certificate of need to an applicant seeking to open a new
10 hospital or dialysis facility in the same rural subarea.

11 SECTION 2. Chapter 323D, Hawaii Revised Statutes, is
12 amended by adding a new section to part V to be appropriately
13 designated and to read as follows:

14 **"§323D- Existing hospitals and dialysis facilities;**
15 **right of first refusal.** (a) If:

16 (1) An applicant for a certificate of need is seeking to
17 establish a new hospital or dialysis facility in a
18 rural subarea; and

19 (2) The state agency determines that there is a public
20 need for the hospital or dialysis facility pursuant to
21 section 323D-43(b),



1 the state agency, before issuing a certificate of need, shall
2 offer existing hospitals, in the case of an applicant seeking to
3 establish a new hospital, or dialysis facilities, in the case of
4 an applicant seeking to establish a new dialysis facility,
5 operating in that rural subarea a right of first refusal to
6 expand their facilities or services to meet the public need
7 identified in paragraph (2).

8 (b) An existing hospital or dialysis facility that elects
9 to exercise a right of first refusal pursuant to this section
10 shall do so within sixty days of the date the state agency
11 offers the right of first refusal to the hospital or dialysis
12 facility. The hospital or dialysis facility that wishes to
13 exercise a right of first refusal shall file an application with
14 the state agency that includes:

15 (1) A statement evaluating the hospital or dialysis
16 facility's proposed expansion to meet the public need
17 identified by the state agency in subsection (a)(2),
18 including the probable impact on health care costs and
19 any other information required by the state agency as
20 provided by rule; and



1 (2) Cost projections for at least the first and third
2 years after its approval.

3 (c) The state agency shall review the application
4 submitted pursuant to subsection (b) in consultation with
5 appropriate subarea councils, the review panel, the statewide
6 council, appropriate individuals, and appropriate public
7 agencies. If the state agency determines that the cost of the
8 facility or service will not be unreasonable in the light of the
9 benefits it will provide and its impact on health care costs,
10 the state agency shall:

11 (1) Approve the existing hospital or dialysis facility's
12 application and issue a certificate of need to the
13 existing hospital or dialysis facility; and

14 (2) Deny the pending application from the applicant
15 seeking to establish a new hospital or dialysis
16 facility.

17 (d) If multiple hospitals or dialysis facilities operate
18 in a rural subarea elect to exercise a right of first refusal,
19 the state agency, in consultation with the appropriate subarea
20 councils, the review panel, the statewide council, appropriate
21 individuals, and appropriate public agencies, may select and



1 issue a certificate of need to one or more hospitals or dialysis
2 facilities.

3 (e) The state agency shall issue a decision on the
4 application submitted pursuant to subsection (b) within sixty
5 days of the application's submission, unless the state agency
6 within the sixty days notifies the applicant in writing that the
7 period for agency review has been extended by the state agency;
8 provided that the extension shall be for a period of no more
9 than an additional sixty days. The decision shall be subject to
10 post-decision review procedures that the state agency may
11 provide for by rules adopted pursuant to chapter 91.

12 (f) The state agency may adopt rules pursuant to
13 chapter 91 to implement this section.

14 (g) For the purpose of this section:

15 "Hospital" means an entity licensed as a hospital by the
16 department of health pursuant to section 321-14.5.

17 "Dialysis facility" means an entity licensed by the
18 department of health to provide dialysis services."

19 SECTION 2. Section 323D-2, Hawaii Revised Statutes, is
20 amended by adding a new definition to be appropriately inserted
21 and to read as follows:



1 "Rural subarea" means a subarea whose population density
 2 is less than or equal to eight hundred people per square mile,
 3 as determined by the population of the last official census
 4 conducted by the United States Census Bureau."

5 SECTION 3. Section 323D-43, Hawaii Revised Statutes, is
 6 amended by amending subsection (b) to read as follows:

7 "(b) No certificate of need shall be issued unless the
 8 state agency has determined that:

9 (1) There is a public need for the facility or the
 10 service; and

11 (2) The cost of the facility or service will not be
 12 unreasonable in the light of the benefits it will
 13 provide and its impact on health care costs[=];

14 provided that an application for a certificate of need that
 15 seeks to establish a new hospital within a rural subarea shall
 16 be subject to a right of first refusal by existing hospitals or
 17 dialysis facilities pursuant to section 323D-_____."

18 SECTION 4. Section 323D-44, Hawaii Revised Statutes, is
 19 amended by amending subsection (b) to read as follows:

20 "(b) The state agency shall issue a decision on the
 21 application within ninety days after the beginning of the period



1 for agency review, unless the state agency within the ninety
2 days notifies the applicant in writing that the period for
3 agency review has been extended by the state agency sixty days
4 beyond the ninety days[-]; provided that a decision for an
5 application for a certificate of need for a new hospital or
6 dialysis facility in a rural subarea shall include only a
7 determination of:

8 (1) Whether there is a public need for the facility or
9 service; and

10 (2) Whether the cost of the facility or service will not
11 be unreasonable in the light of the benefits it will
12 provide and its impact on health care costs,

13 provided further that the application for the certificate of
14 need for a new hospital or dialysis facility in a rural subarea
15 shall be subject to a right of first refusal pursuant to section
16 323D- . The decision shall be subject to post-decision review
17 procedures which the state agency may provide for by rules
18 adopted in conformity with chapter 91."

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



H.B. NO. 2502

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

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H.B. NO. 2502

Report Title:

DOH; SHPDA; Health; Hospitals; Dialysis Facilities; Certificate of Need; Rural Areas

Description:

Requires the State Health Planning and Development Agency to grant an existing hospital or dialysis facility in a rural subarea a right of first refusal to expand its existing facilities or services if a competing entity files a certificate of need application to establish a new hospital or dialysis facility in the same rural subarea. Defines "rural subarea."

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