



# LAWS OF ALASKA

**2004**

**Source**

SCS CSHB 511(FIN)

**Chapter No.**

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**AN ACT**

Relating to the certificate of need program for health care facilities; and providing for an effective date.

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**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

THE ACT FOLLOWS ON PAGE 1



## AN ACT

1 Relating to the certificate of need program for health care facilities; and providing for an  
2 effective date.

3  
4 \* **Section 1.** AS 18.07.031(a) is amended to read:

5 (a) Except as provided in (c) **and (d)** of this section, a person may not make  
6 an expenditure of \$1,000,000 or more for any of the following unless authorized under  
7 the terms of a certificate of need issued by the department:

- 8 (1) construction of a health care facility;  
9 (2) alteration of the bed capacity of a health care facility; or  
10 (3) addition of a category of health services provided by a health care  
11 facility.

12 \* **Sec. 2.** AS 18.07.031(c) is amended to read:

13 (c) Notwithstanding (a) of this section, a person who is lawfully operating a  
14 health care facility that is an ambulatory surgical facility at a site may make an

1 expenditure of any amount in order to relocate the services of that facility to a new site  
2 in the same community without obtaining a certificate of need as long as neither the  
3 bed capacity nor the number of categories of health services provided at the new site is  
4 greater. [HOWEVER, NOTWITHSTANDING THE EXPENDITURE THRESHOLD  
5 IN (a) OF THIS SECTION, A PERSON MAY NOT USE THE SITE FROM WHICH  
6 THE HEALTH CARE FACILITY RELOCATED FOR ANOTHER HEALTH CARE  
7 FACILITY UNLESS AUTHORIZED UNDER A CERTIFICATE OF NEED ISSUED  
8 BY THE DEPARTMENT.]

9 \* **Sec. 3.** AS 18.07.031 is amended by adding new subsections to read:

10 (d) Beginning July 1, 2005, the \$1,000,000 expenditure threshold in (a) of this  
11 section is increased by \$50,000 annually on July 1 of each year up to and including  
12 July 1, 2014.

13 (e) In (a) of this section, "expenditure" includes the purchase of property  
14 occupied by or the equipment required for the health care facility and the net present  
15 value of a lease for space occupied by or the equipment required for the health care  
16 facility; "expenditure" does not include costs associated with routine maintenance and  
17 replacement of equipment at an existing health care facility.

18 \* **Sec. 4.** AS 18.07.035 is amended by adding new subsections to read:

19 (b) The department may require a person who intends to submit an application  
20 under (a) of this section to submit a letter of intent to the department, except in the  
21 case of an application for an emergency or temporary certificate of need authorized  
22 under AS 18.07.071.

23 (c) The department shall notify the applicant in writing when the application is  
24 complete under this chapter.

25 \* **Sec. 5.** AS 18.07.043 is amended to read:

26 **Sec. 18.07.043. Standard of review for applications for certificates of need**  
27 **relating to nursing homes, [AND] nursing home beds, and residential psychiatric**  
28 **treatment centers.** (a) The department shall develop review standards for an  
29 application for a certificate of need, or for a modification of a certificate of need,  
30 issued under this chapter for a health care facility that is a nursing home **or residential**  
31 **psychiatric treatment center,** or **that** has nursing home beds.

1 (b) In developing the review standards under (a) of this section, the  
2 department shall consider whether

3 (1) a public process and existing appropriate statewide, regional, and  
4 local plans were included in planning and designing **the residential psychiatric**  
5 **treatment center,** the additional nursing home beds, or the **nursing home** [HEALTH  
6 CARE FACILITY];

7 (2) the **residential psychiatric treatment center, the** additional  
8 nursing home beds, or the **nursing home** [HEALTH CARE FACILITY] meets  
9 minimum required use rates for, **as applicable, the residential psychiatric treatment**  
10 **center or** new nursing beds, and the effect on use rates for existing nursing home  
11 beds;

12 (3) the **residential psychiatric treatment center, the facility**  
13 **proposing** additional nursing home beds, or the **nursing home** [HEALTH CARE  
14 FACILITY] demonstrates consideration of the community, regional, and statewide  
15 needs for, **as applicable, the residential psychiatric treatment center or the** new  
16 nursing home beds;

17 (4) the **residential psychiatric treatment center, the** additional  
18 nursing home beds, or the **nursing home** [HEALTH CARE FACILITY] meets the  
19 minimum number of, **as applicable, residential psychiatric treatment beds or** new  
20 nursing beds that should be required in a facility to ensure efficiency and economies of  
21 scale;

22 (5) the **residential psychiatric treatment center, the facility**  
23 **proposing** additional nursing home beds, or the **nursing home** [HEALTH CARE  
24 FACILITY] demonstrates the proposed service will provide a quality of care  
25 equivalent to existing community, regional, or statewide services;

26 (6) the **residential psychiatric treatment center, the facility**  
27 **proposing** additional nursing home beds, or the **nursing home** [HEALTH CARE  
28 FACILITY] demonstrates financial feasibility, including long-term viability, and what  
29 the financial effect will be on consumers and the state; and

30 (7) the sponsor has demonstrated cost effectiveness through  
31 considering the availability of appropriate, less costly alternatives of providing the

1 services planned.

2 (c) The department shall grant a sponsor a certificate of need or modify a  
3 certificate of need that authorizes a residential psychiatric treatment center or  
4 nursing home beds, or that is for a health care facility that is a nursing home, if the  
5 department finds that the sponsor meets the standards established in or under this  
6 chapter.

7 \* **Sec. 6.** AS 18.07 is amended by adding a new section to read:

8 **Sec. 18.07.045. Time standards for review of applications for certificates**  
9 **of need.** (a) The following time standards apply for a review by the department of an  
10 application for a certificate of need under this chapter:

11 (1) the department may defer commencement of the review process  
12 under this chapter for an application for a period not to exceed 60 days after the  
13 determination that the application is complete in order to allow the department to  
14 receive and consider concurrent applications from each person who has submitted a  
15 letter of intent to submit an application proposing an activity that is similar to the  
16 activity proposed by the application in the geographic area;

17 (2) the department shall review the application made under this chapter  
18 and submit an analysis and recommendation to the commissioner within 60 days after  
19 the date that notification under AS 18.07.035(c) is sent to the applicant stating that the  
20 application is complete.

21 (b) The commissioner may extend the time periods set out in (a) of this section  
22 for not more than 30 days for any of the following reasons:

23 (1) the applicant amends the application under this chapter;

24 (2) the department requests an extension of time within which to  
25 prepare its findings and recommendations on the application; the commissioner may  
26 grant only one extension under this paragraph.

27 \* **Sec. 7.** AS 18.07.111(8) is amended to read:

28 (8) "health care facility" means a private, municipal, state, or federal  
29 hospital, psychiatric hospital, independent diagnostic testing facility, residential  
30 psychiatric treatment center, tuberculosis hospital, skilled nursing facility, kidney  
31 disease treatment center (including freestanding hemodialysis units), intermediate care

1 facility, and ambulatory surgical facility; the term excludes

2 (A) an Alaska Pioneers' Home administered by the Department  
3 of **Health and Social Services** [ADMINISTRATION] under [AS 44.21.020(9)  
4 AND] AS 47.55; and

5 (B) the offices of private physicians or dentists whether in  
6 individual or group practice;

7 \* **Sec. 8.** AS 18.07.111 is amended by adding a new paragraph to read:

8 (10) "residential psychiatric treatment center" means a secure or semi-  
9 secure psychiatric facility or inpatient program in a psychiatric facility that is licensed  
10 by the Department of Health and Social Services and that provides therapeutically  
11 appropriate and medically necessary diagnostic, evaluation, and treatment services

12 (A) 24 hours a day for children with severe emotional or  
13 behavioral disorders;

14 (B) under the direction of a physician; and

15 (C) under a professionally developed and supervised individual  
16 plan of care designed to achieve the recipient's discharge from inpatient status  
17 at the earliest possible time that is intensively and collaboratively delivered by  
18 an interdisciplinary team involving medical, mental health, educational, and  
19 social service components.

20 \* **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to  
21 read:

22 **APPLICABILITY.** (a) AS 18.07.031(d), enacted by sec. 3 of this Act, applies to a  
23 health care facility that enters into a lease agreement for the space occupied or equipment  
24 required for that facility on or after the effective date of this Act.

25 (b) AS 18.07.035(b) and (c) and 18.07.045, enacted by secs. 4 and 6 of this Act,  
26 respectively, apply to a certificate of need application filed with the Department of Health and  
27 Social Services after the effective date of this Act.

28 (c) AS 18.07.043, as amended by sec. 5 of this Act, does not apply to a health care  
29 facility that is a residential psychiatric treatment center that is under construction before the  
30 effective date of this Act if the facility is in compliance with all other applicable federal, state,  
31 and local laws. For purposes of this subsection, "under construction" means that

- 1                   (1) the owner of the facility has for the facility
- 2                         (A) complete architectural plans approved by the applicable agency;
- 3                         (B) a building permit if required;
- 4                   (2) the foundation of the facility is being or has been laid; and
- 5                   (3) the construction of the facility is completed within two years after the
- 6 effective date of this Act.
- 7       \* **Sec. 10.** This Act takes effect immediately under AS 01.10.070(c).