



LAWS OF ALASKA

1976

Source

CSHB 665 am S

Chapter No.

275

AN ACT

Relating to statewide coordination of health planning; and providing for an effective date.

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

- * Section 1. AS 18.07.010 - 18.07.100 are repealed.
- * Sec. 2. AS 18.07 is amended by adding new sections to read:

CHAPTER 7. COMPREHENSIVE HEALTH PLANNING.

ARTICLE 1. PLANNING AGENCIES.

Sec. 18.07.011. STATEWIDE HEALTH COORDINATING COUNCIL. There is created the Statewide Health Coordinating Council. The council shall be organized in the manner described by sec. 1524(b), P.L. 93-641, sec. 237(a)(1)(A), P.L. 94-63 and AS 47.30.605(a). The council shall perform the functions listed in sec. 1524(c), P.L. 93-641, sec. 237(a)-(1)(A), P.L. 94-63 and AS 47.30.605(b).

Sec. 18.07.021. STATE HEALTH PLANNING AND DEVELOPMENT AGENCY. The office of planning and research in the department is the state health planning and development agency designated under sec. 1521(b)(3), P.L. 93-641. The office shall perform the functions enumerated under sec. 1523, P.L. 93-641, administer the certificate of need program outlined in secs. 41 - 111 of this chapter, and other functions prescribed in this chapter.

ARTICLE 2. CERTIFICATE OF NEED PROGRAM.

Sec. 18.07.031. CERTIFICATE OF NEED REQUIRED. No person may undertake the following unless authorized under the terms of a certificate of need issued by the office:

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

Sec. 18.07.041. STANDARD OF REVIEW FOR APPLICATIONS FOR CERTIFICATES OF NEED. The office shall grant a sponsor a certificate of need or modify a certificate of need if the availability and quality of existing health care resources or the accessibility to those resources is less than the current or projected requirement for health services required to maintain the good health of Alaska citizens.

Sec. 18.07.051. TERMS OF ISSUANCE OF THE CERTIFICATE. Each certificate issued shall specify terms of issuance describing the nature and extent of the activities authorized by the certificate.

Sec. 18.07.061. MODIFICATION AND TERMINATION OF ACTIVITIES. The certificate holder shall apply to the office for a modification of the certificate before terminating part of the activities authorized by the terms of issuance, but the certificate holder is not required to obtain the acquiescence of the office before terminating all the activities authorized by the certificate. If a certificate holder terminates all of the activities authorized by a certificate, the certificate holder is required to notify the office 60 days before termination and to surrender the certificate to the office within 30 days of termination.

Sec. 18.07.071. TEMPORARY AND EMERGENCY CERTIFICATES.
(a) The office shall grant a sponsor an emergency certificate for the construction of a health care facility for which a certificate is required under sec. 41 of this chapter if the sponsor shows, by affidavit or formal hearing, that the act of construction consists of effecting emergency repairs.

(b) The office may grant a sponsor a temporary certificate for the temporary operation of a category of health service, if the sponsor shows by affidavit or formal hearing

(1) the necessity for early, immediate, or temporary relief, and

(2) adverse effect to the public interest by reason of delay occasioned by compliance with the requirements of sec. 41 of this chapter and application procedures prescribed by regulations under this chapter.

(c) A temporary certificate granted under (a) and (b) of this section confers no vested rights on behalf of the applicant. The office shall impose those special limitations and restrictions concerning duration and right of extension which the office considers appropriate. No temporary certificate may be granted for a period longer than necessary for the sponsor to obtain review of the action certified by the temporary certificate under sec. 51 of this chapter. Application for a certificate of need under sec. 41 of this

chapter must commence within 60 days of the date of issuance of the temporary certificate.

Sec. 18.07.081. PROCEEDINGS FOR MODIFICATION, SUSPENSION, AND REVOCATION. (a) The office, a member of the public who is substantially affected by activities authorized by the certificate, or another applicant for a certificate of need may initiate a hearing to obtain modification, suspension or revocation of an existing certificate of need by filing an accusation with the commissioner as prescribed under AS 44.62.360. No revocation, modification, or suspension of an outstanding certificate may be undertaken unless it is in accordance with AS 44.62.330 - 44.62.630.

(b) The certificate holder may obtain modification of an existing certificate by utilizing the application procedure enumerated in regulations adopted under this chapter.

(c) A certificate of need shall be suspended if an accusation is filed before the commencement of activities authorized under sec. 41 of this chapter which charges that factors upon which the certificate of need was issued have changed, or new factors have been discovered which significantly alter the need for the activity authorized. A suspension of a certificate may not exceed 60 days. At the end of this period or sooner, the office shall revoke or reinstate the certificate.

(d) A certificate of need may be revoked if

(1) the sponsor has not shown continuing progress toward commencement of the activities authorized under sec. 41 of this chapter after six months of issuance;

(2) the applicant fails, without good cause, to complete activities authorized by the certificate;

(3) the sponsor fails to comply with the provisions of this chapter or regulations adopted under this chapter;

(4) the sponsor knowingly misrepresents a material fact in obtaining the certificate;

(5) the facts charged in an accusation filed under (c) of this section are established; or

(6) the sponsor fails to provide services authorized by the terms of the certificate.

(e) It is unlawful for a person to file an accusation seeking suspension or revocation of a certificate of need under this section, knowing that the charges stated in the accusation are untrue or that his charges do not constitute grounds for revocation or suspension under this chapter.

Sec. 18.07.091. INJUNCTIVE RELIEF; PENALTIES; RIGHT OF ACTION. (a) Injunctive relief against violations of this chapter or regulations adopted under this chapter may be obtained from a court of competent jurisdiction at the instance of the commissioner, a holder of a certificate of need who is adversely affected in the exercise of the

activities conducted in violation of the certificate, or any member of the public substantially and adversely affected by the violation. Upon written request by the commissioner, the attorney general shall furnish legal services and pursue the action for injunctive relief to an appropriate conclusion.

(b) A person who files an accusation seeking suspension or revocation of a certificate of need, knowing that his charges are untrue or that his charges do not constitute grounds for revocation or suspension under this chapter, is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000. The sponsor or holder of a certificate of need injured by the violation of sec. 81(e) of this chapter may recover damages for loss incurred by reason of delay caused by a suspension.

Sec. 18.07.101. REGULATIONS. The commissioner shall adopt, in accordance with the Administrative Procedure Act (AS 44.62), regulations which establish procedures under which sponsors may make application for certificates of need required by this chapter and which govern the review of those applications by the office, establish requirements for a uniform statewide system of reporting financial and other operating data, and otherwise carry out the purposes of this chapter.

Sec. 18.07.111. DEFINITIONS. In this chapter

(1) "commencement of activities" means the visible commencement of actual operations on the ground for the construction of a building, the alteration of the bed capacity of a health care facility, or the provision for or deletion of an existing category of health services to consumers, which operations are readily recognizable as such, and which operations are done with intent to continue the work until such activities are completed;

(2) "commissioner" means the commissioner of health and social services;

(3) "complete activities" means the substantial performance of the work required to comply with the terms of issuance of the certificate of need to which all parties participating in those activities have obligated themselves to perform;

(4) "construction" means the erection, building, alteration, reconstruction, improvement, extension or modification of a health care facility under this chapter, including lease or purchase of equipment, excavation or other necessary actions;

(5) "council" means the Statewide Health Coordinating Council organized and operated in accordance with sec. 1524, P.L. 93-641;

(6) "department" means the Department of Health and Social Services;

(7) "health care facility" means a private, municipal, state or federal hospital, psychiatric hospital,

tuberculosis hospital, skilled nursing facility, kidney disease treatment center (including freestanding hemodialysis units), intermediate care facility, and ambulatory surgical facility; the term excludes the offices of private physicians or dentists whether in individual or group practice;

(8) "category of health services" means a major type, program, unit, division, or department of care provided through a health care facility whether inpatient or outpatient, including an outpatient department, psychiatric wing, kidney dialysis program, radiotherapy, burn unit, or newborn intensive care unit, except that "service" does not include the lawful practice of a profession or vocation conducted independently of a health care facility and in accordance with applicable licensing laws of the state;

(9) "health systems agency" means an entity organized and operated in accordance with sec. 1521(b), P.L. 93-641, engaging in health planning and development functions in a specified health service area of the state;

(10) "office" means the office of planning and research in the Department of Health and Social Services;

(11) "secretary" means the secretary of the United States Department of Health, Education and Welfare.

* Sec. 3. PLANNING GRANTS TO HEALTH SYSTEMS AGENCIES. (a) A health systems agency designated under P.L. 93-641 is entitled to grants for the first four years of operation as follows:

- (1) \$100,000 during fiscal year 1977;
- (2) \$75,000 during fiscal year 1978;
- (3) \$50,000 during fiscal year 1979;
- (4) \$25,000 during fiscal year 1980.

(b) A health systems agency designated under P.L. 93-641 is entitled to a grant in an amount equal to but not exceeding

- (1) \$25,000 during fiscal year 1977;
- (2) \$50,000 during fiscal year 1978;
- (3) \$75,000 during fiscal year 1979; and
- (4) \$100,000 during each succeeding fiscal year.

* Sec. 4. All health care facilities in existence or under construction before July 1, 1976 shall be issued a certificate of need.

* Sec. 5. AS 18.07.031 - 18.07.101 in sec. 2. of this Act take effect on July 1, 1977.