

SENATE CS FOR CS FOR HOUSE BILL NO. 511(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 5/7/04

Referred: Finance

Sponsor(s): REPRESENTATIVE SAMUELS

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the certificate of need program for health care facilities; and**
2 **providing for an effective date."**

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

4 *** Section 1.** AS 18.07.031(c) is amended to read:

5 (c) Notwithstanding (a) of this section, a person who is lawfully operating a
6 health care facility that is an ambulatory surgical facility at a site may make an
7 expenditure of any amount in order to relocate the services of that facility to a new site
8 in the same community without obtaining a certificate of need as long as neither the
9 bed capacity nor the number of categories of health services provided at the new site is
10 greater. [HOWEVER, NOTWITHSTANDING THE EXPENDITURE THRESHOLD
11 IN (a) OF THIS SECTION, A PERSON MAY NOT USE THE SITE FROM WHICH
12 THE HEALTH CARE FACILITY RELOCATED FOR ANOTHER HEALTH CARE
13 FACILITY UNLESS AUTHORIZED UNDER A CERTIFICATE OF NEED ISSUED
14 BY THE DEPARTMENT.]

1 * **Sec. 2.** AS 18.07.031 is amended by adding a new subsection to read:

2 (d) In (a) of this section, "expenditure" includes the purchase of property
3 occupied by or the equipment required for the health care facility and the net present
4 value of a lease for space occupied by or the equipment required for the health care
5 facility; "expenditure" does not include costs associated with routine maintenance and
6 replacement of equipment at an existing health care facility.

7 * **Sec. 3.** AS 18.07.035 is amended by adding new subsections to read:

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

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

14 * **Sec. 4.** AS 18.07.043 is amended to read:

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

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

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

27 (2) the **residential psychiatric treatment center, the** additional
28 nursing home beds, or the **nursing home** [HEALTH CARE FACILITY] meets
29 minimum required use rates for, **as applicable, the residential psychiatric treatment**
30 **center or** new nursing beds, and the effect on use rates for existing nursing home
31 beds;

1 (3) the residential psychiatric treatment center, the facility
 2 proposing additional nursing home beds, or the nursing home [HEALTH CARE
 3 FACILITY] demonstrates consideration of the community, regional, and statewide
 4 needs for, as applicable, the residential psychiatric treatment center or the new
 5 nursing home beds;

6 (4) the residential psychiatric treatment center, the additional
 7 nursing home beds, or the nursing home [HEALTH CARE FACILITY] meets the
 8 minimum number of, as applicable, residential psychiatric treatment beds or new
 9 nursing beds that should be required in a facility to ensure efficiency and economies of
 10 scale;

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

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

19 (7) the sponsor has demonstrated cost effectiveness through
 20 considering the availability of appropriate, less costly alternatives of providing the
 21 services planned.

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

27 * **Sec. 5.** AS 18.07 is amended by adding a new section to read:

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

31 (1) the department may defer commencement of the review process

1 under this chapter for an application for a period not to exceed 60 days after the
 2 determination that the application is complete in order to allow the department to
 3 receive and consider concurrent applications from each person who has submitted a
 4 letter of intent to submit an application proposing an activity that is similar to the
 5 activity proposed by the application in the geographic area;

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

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

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

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

16 * **Sec. 6.** AS 18.07.111(8) is amended to read:

17 (8) "health care facility" means a private, municipal, state, or federal
 18 hospital, psychiatric hospital, **independent diagnostic testing facility, residential**
 19 **psychiatric treatment center,** tuberculosis hospital, skilled nursing facility, kidney
 20 disease treatment center (including freestanding hemodialysis units), intermediate care
 21 facility, and ambulatory surgical facility; the term excludes

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

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

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

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

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

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

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

9 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 **APPLICABILITY.** (a) AS 18.07.031(d), enacted by sec. 2 of this Act, applies to a
12 health care facility that enters into a lease agreement for the space occupied or equipment
13 required for that facility on or after the effective date of this Act.

14 (b) AS 18.07.035(b) and (c) and 18.07.045, enacted by secs. 3 and 5 of this Act,
15 respectively, apply to a certificate of need application filed with the Department of Health and
16 Social Services after the effective date of this Act.

17 (c) AS 18.07.043, as amended by sec. 4 of this Act, does not apply to a health care
18 facility that is a residential psychiatric treatment center that is under construction before the
19 effective date of this Act if the facility is in compliance with all other applicable federal, state,
20 and local laws. For purposes of this subsection, "under construction" means that

21 (1) the owner of the facility has for the facility

22 (A) complete architectural plans approved by the applicable agency;

23 (B) a building permit;

24 (2) the foundation of the facility is being or has been laid; and

25 (3) the construction of the facility is completed within two years after the
26 effective date of this Act.

27 * **Sec. 9.** This Act takes effect immediately under AS 01.10.070(c).