

Introduced: 3/6/72
Referred: Health, Welfare
and Education

1 IN THE SENATE

BY THE HEALTH, WELFARE
AND EDUCATION COMMITTEE

2 SENATE BILL NO. 370

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act requiring a health care facilities certificate
7 of need before construction or modification of health
8 care facilities; and providing for an effective date."

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

10 * Section 1. AS 18.20 is amended by adding new sections to read:

11 ARTICLE 4. HEALTH CARE FACILITIES CERTIFICATE OF NEED.

12 Sec. 18.20.270. CERTIFICATE REQUIRED. No person may construct a
13 health care facility or substantially change the type of services pro-
14 vided by an existing health care facility without a certificate of need
15 issued by the commissioner.

16 Sec. 18.20.275. ISSUANCE OF CERTIFICATE. (a) The commissioner
17 shall issue a certificate if upon consideration of a proper application
18 and upon the recommendations of the planning agencies he finds that

19 (1) the proposed facilities meet a health care facilities
20 need not presently met by existing facilities, or the proposed facilities
21 meet a health care facilities need presently met, but the proposed
22 facilities meet the need in a manner substantially superior to the man-
23 ner in which that need is met by existing facilities; and

24 (2) if the proposed facilities would create a duplication of
25 health care facilities, that the duplication would not weaken the state
26 health care delivery system, or unreasonably increase the cost of health
27 care services to the consumer.

28 (b) The commissioner shall issue or deny the certificate within
29 120 days of receipt of the application. Receipt by the commissioner of

1 the application is accomplished only if the information required by
2 sec. 280(b) of this chapter is provided in full by the applicant.

3 Sec. 18.20.280. APPLICATION FOR CERTIFICATE. (a) A person seek-
4 ing a certificate shall apply on the form provided by the commissioner.

5 (b) The application form shall require, but is not limited to
6 requiring, the following information:

7 (1) affirmative evidence of ability to comply with the
8 standards, rules and regulations prescribed under secs. 60 - 80 of this
9 chapter;

10 (2) a statement by the applicant of

11 (A) the geographic area to be served,

12 (B) the population to be served;

13 (3) a description of the proposed construction in reasonable
14 detail including

15 (A) the capital expenditures contemplated, and

16 (B) the estimated annual operating costs, including the
17 anticipated salary costs and numbers of new staff required by the
18 proposal;

19 (4) the anticipated benefit to the area which will result
20 from the proposal;

21 (5) the estimated date of commencement and completion of the
22 project;

23 (6) a description of how the facility fits into the compre-
24 hensive health program of the area;

25 (7) the availability of financing and the manner of financing
26 the proposed construction.

27 Sec. 18.20.285. REVIEW OF APPLICATION AND RECOMMENDATION BY THE
28 PLANNING AGENCIES. (a) Upon receipt of an application for a certificate
29 the commissioner shall notify the concerned planning agencies so that the

1 application may be reviewed by the agencies within 90 days of the day
2 the commissioner received it.

3 (b) An applicant may testify before the agencies to explain the
4 need the proposed facilities will meet and to present evidence to
5 establish the need for the facility.

6 (c) The agencies shall issue their recommendations on the appli-
7 cation to the commissioner within 90 days of the day the commissioner
8 received it or 30 days from the date the agencies received it, whichever
9 period is longer.

10 Sec. 18.20.290. HEARING. When the person who applies for a
11 certificate is aggrieved by a decision of the commissioner, he may re-
12 quest and obtain a hearing conducted by the department in accord with
13 the Administrative Procedure Act (AS 44.62).

14 Sec. 18.20.295. CERTIFICATE EXPIRATION. A certificate expires two
15 years from the date issued. However, an application may be renewed by
16 the commissioner without obtaining an agency recommendation for a
17 reasonable period required to complete construction.

18 Sec. 18.20.300. REGULATIONS. The commissioner may promulgate
19 regulations necessary to carry out the provisions of secs. 270 - 315 of
20 this chapter. Regulations shall be adopted in accord with the Adminis-
21 trative Procedure Act (AS 44.62).

22 Sec. 18.20.305. PENALTY. A person who violates a provision of
23 secs. 270 - 315 of this chapter or the regulations promulgated under
24 sec. 300 of this chapter, or who begins new construction of, addition
25 to or modernization of a health facility, without first obtaining a
26 certificate of need is subject to a fine of \$500 for each day the viola-
27 tion or offense continues.

28 Sec. 18.20.310. ACTION TO ENJOIN CONSTRUCTION WITHOUT A CERTIFI-
29 CATE. Upon the advice of the attorney general the department may

1 maintain an action for injunction or other process against a person to
2 restrain or prevent the construction of health care facilities without
3 a certificate issued under the provisions of this chapter.

4 Sec. 18.20.315. DEFINITIONS. In secs. 270 - 315 of this chapter

5 (1) "agency" means a local health planning body, an agency
6 designated by the State Comprehensive Planning Agency and the State
7 Comprehensive Health Planning Agency in accordance with sec. 314(b),
8 P.L. 89-749 and created by AS 18.05.051;

9 (2) "certificate" means a health care facilities certificate
10 of need;

11 (3) "commissioner" means the commissioner of the Department
12 of Health and Social Services;

13 (4) "construct" means to build and erect, or to alter,
14 modernize, or modify a facility in a substantial manner;

15 (5) "health care facilities" means hospitals, nursing homes,
16 extended care facilities, intermediate care facilities, residential care
17 facilities, convalescent care facilities, surgicenters, outpatient care
18 facilities, and home care facilities; this is not intended to include
19 the individual practitioner in the conduct of his profession or vocation
20 independently of a health care facility;

21 (6) "person" means an individual, partnership, association,
22 firm, corporation, organization or governmental unit.

23 * Sec. 2. AS 18.20.140 is amended to read:

24 Sec. 18.20.140. PURPOSE. The purpose of secs. 140 - 220 of this
25 chapter is to make an inventory of existing hospitals and medical
26 facilities, community mental health centers and facilities for the
27 mentally retarded, to survey the need for construction of hospitals and
28 medical facilities, community mental health centers and facilities for
29 the mentally retarded, and to develop a program and plan of construction

1 for each. The state construction program developed under secs. 140 -
2 220 of this chapter applies to health facilities defined in sec. 315(5)
3 of this chapter regardless of the manner in which the facilities are
4 financed.

5 * Sec. 3. AS 18.05.053 is amended by adding a new paragraph to read:

6 (4) review applications for health care facilities certifi-
7 cates of need and make recommendations to the commissioner on the
8 issuance of the certificates.

9 * Sec. 4. This Act takes effect on the day after its passage and
10 approval or on the day it becomes law without approval.

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