

Original sponsor: Rules Committee  
by request of the Legislative Council  
Interim Subcommittee on Health Planning

Offered: 5/23/76  
Referred: Rules

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 665

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to statewide coordination of health  
7 planning."

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

9 \* Section 1. AS 18.07.010 - 18.07.100 are repealed.

10 \* Sec. 2. AS 18.07 is amended by adding new sections to read:

11 CHAPTER 7. COMPREHENSIVE HEALTH PLANNING.

12 ARTICLE 1. PLANNING AGENCIES.

13 Sec. 18.07.011. STATEWIDE HEALTH COORDINATING COUNCIL. There is  
14 created the Statewide Health Coordinating Council. The council shall  
15 be organized in the manner described by sec. 1524(b), P.L. 93-641, sec.  
16 237(a)(1)(A), P.L. 94-63 and AS 47.30.605(a). The council shall perform  
17 the functions listed in sec. 1524(c), P.L. 93-641, sec. 237(a)(1)(A),  
18 P.L. 94-63 and AS 47.30.605(b).

19 Sec. 18.07.021. STATE HEALTH PLANNING AND DEVELOPMENT AGENCY. The  
20 office of planning and research in the department is the state health  
21 planning and development agency designated under sec. 1521(b)(3), P.L.  
22 93-641. The office shall perform the functions enumerated under sec.  
23 1523, P.L. 93-641, administer the certificate of need program outlined  
24 in secs. 41 - 111 of this chapter, and other functions prescribed in  
25 this chapter.

26 ARTICLE 2. CERTIFICATE OF NEED PROGRAM.

27 Sec. 18.07.031. CERTIFICATE OF NEED REQUIRED. No person may  
28 undertake the following unless authorized under the terms of a certifi-  
29 cate of need issued by the office:

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

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

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

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

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

29 (b) The office may grant a sponsor a temporary certificate for the

1 temporary operation of a category of health service, if the sponsor  
2 shows by affidavit or formal hearing

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

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

9 (c) A temporary certificate granted under (a) and (b) of this  
10 section confers no vested rights on behalf of the applicant. The office  
11 shall impose those special limitations and restrictions concerning  
12 duration and right of extension which the office considers appropriate.  
13 No temporary certificate may be granted for a period longer than neces-  
14 sary for the sponsor to obtain review of the action certified by the  
15 temporary certificate under sec. 51 of this chapter. Application for a  
16 certificate of need under sec. 41 of this chapter must commence within  
17 60 days of the date of issuance of the temporary certificate.

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

27 (b) The certificate holder may obtain modification of an existing  
28 certificate by utilizing the application procedure enumerated in regu-  
29 lations adopted under this chapter.

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

8 (d) A certificate of need may be revoked if

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

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

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

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

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

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

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

27 Sec. 18.07.091. INJUNCTIVE RELIEF; PENALTIES; RIGHT OF ACTION.

28 (a) Injunctive relief against violations of this chapter or regulations  
29 adopted under this chapter may be obtained from a court of competent

1 jurisdiction at the instance of the commissioner, a holder of a certi-  
2 ficate of need who is adversely affected in the exercise of the activi-  
3 ties conducted in violation of the certificate, or any member of the  
4 public substantially and adversely affected by the violation. Upon  
5 written request by the commissioner, the attorney general shall furnish  
6 legal services and pursue the action for injunctive relief to an appro-  
7 priate conclusion.

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

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

23 Sec. 18.07.111. DEFINITIONS. In this chapter

24 (1) "commencement of activities" means the visible commence-  
25 ment of actual operations on the ground for the construction of a build-  
26 ing, the alteration of the bed capacity of a health care facility, or  
27 the provision for or deletion of an existing category of health services  
28 to consumers, which operations are readily recognizable as such, and  
29 which operations are done with intent to continue the work until such

1 activities are completed;

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

4 (3) "complete activities" means the substantial performance  
5 of the work required to comply with the terms of issuance of the certi-  
6 ficate of need to which all parties participating in those activities  
7 have obligated themselves to perform;

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

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

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

16 (7) "health care facility" means a private, municipal, state  
17 or federal hospital, psychiatric hospital, tuberculosis hospital,  
18 skilled nursing facility, kidney disease treatment center (including  
19 freestanding hemodialysis units), intermediate care facility, and ambu-  
20 latory surgical facility; the term excludes the offices of private  
21 physicians or dentists whether in individual or group practice;

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

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

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

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

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

12 (1) \$100,000 during fiscal year 1977;

13 (2) \$75,000 during fiscal year 1978;

14 (3) \$50,000 during fiscal year 1979;

15 (4) \$25,000 during fiscal year 1980.

16 (b) A health systems agency designated under P.L. 93-641 is entitled to  
17 a grant in an amount equal to the contributions provided that agency in  
18 accordance with P.L. 93-641 by local sources but not exceeding

19 (1) \$25,000 during fiscal year 1977;

20 (2) \$50,000 during fiscal year 1978;

21 (3) \$75,000 during fiscal year 1979; and

22 (4) \$100,000 during each succeeding fiscal year.

23 (c) The department shall establish by regulation a method, consistent  
24 with state accounting procedures, for determining the monetary value of  
25 contributions made in kind by local sources to health systems agencies.

26 \* Sec. 4. This Act does not apply to construction when commencement of  
27 activities, with reference to "construction" and "commencement of activities"  
28 as defined in AS 18.07.111 in sec. 2 of this Act, has begun before the effec-  
29 tive date of this Act.

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