

Introduced: 2/19/81
Referred: Health, Education &
Social Services and Judiciary

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 195

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to comprehensive health planning."

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

8 * Section 1. AS 18.07.011 is amended to read:

9 Sec. 18.07.011. STATEWIDE HEALTH COORDINATING COUNCIL. There is
10 created the Statewide Health Coordinating Council. The council shall
11 be organized in the manner described by sec. 1524(b), P.L. 93-641,
12 as amended by P.L. 96-79 [SEC. 237(a)(1)(A), P.L. 94-63 AND AS 47.30.-
13 605(a)]. The council shall perform the functions listed in sec.
14 1524(c), P.L. 93-641, as amended by P.L. 96-79, and comply with
15 secs. 1524(d) and (e) of P.L. 93-641, as amended by P.L. 96-79 [SEC.
16 237(a)(1)(A), P.L. 94-63 AND AS 47.30.605(b)].

17 * Sec. 2. AS 18.07.021 is amended to read:

18 Sec. 18.07.021. STATE HEALTH PLANNING AND DEVELOPMENT AGENCY.
19 The [OFFICE OF PLANNING AND RESEARCH IN THE DEPARTMENT IS THE] state
20 health planning and development agency in the department is the state
21 agency designated under sec. 1521(b)(3), P.L. 93-641, as amended by
22 P.L. 96-79. The state agency [OFFICE] shall

23 (1) administer the state program and perform the state
24 functions set out in [ENUMERATED UNDER] secs. 1522, [SEC.] 1523, 1525,
25 and 1526 of P.L. 93-641, as amended by P.L. 96-79;

26 (2) administer the certificate of need program set out [OUT-
27 LINED] in sec. 1527 of P.L. 93-641, as amended by P.L. 96-79, for a
28 health care facility including a rehabilitation facility;

29 (3) conduct health system reviews under secs. 1523 and

1 1532 of P.L. 93-641, as amended by P.L. 96-79;

2 (4) administer the grant, loan, and loan guarantee programs
3 for health facility construction, modernization, or conversion under
4 secs. 1620 -- 1625 and secs. 1640 -- 1643 of P.L. 93-641, as amended
5 by P.L. 96-79 [AS 18.07.041 -- 18.07.111, AND OTHER FUNCTIONS PRE-
6 SCRIBED IN THIS CHAPTER].

7 * Sec. 3. AS 18.07.031 is amended to read:

8 Sec. 18.07.031. CERTIFICATE OF NEED REQUIRED. (a) No person may
9 undertake the following unless authorized under the terms of a certifi-
10 cate of need or exempt from the requirement for a certificate of need
11 in accordance with this chapter [ISSUED BY THE OFFICE]:

- 12 (1) construction of a health care facility;
13 (2) alteration of the bed capacity of a health care facility;
14 (3) addition or elimination of a category of health services
15 provided by a health care facility;
16 (4) acquisition of major medical equipment; and
17 (5) acquisition of an existing health care facility.

18 (b) This section applies to a health care facility controlled by
19 a health maintenance organization or an ambulatory care facility con-
20 trolled by a health maintenance organization only if

- 21 (1) the organization or facility offers inpatient health care
22 services or acquires major medical equipment for use primarily for in-
23 patient health care; and
24 (2) the department does not grant the organization or faci-
25 lity an exemption under AS 18.07.032.

26 * Sec. 4. AS 18.07 is amended by adding a new section to read:

27 Sec. 18.07.032. EXEMPTION FROM THE REQUIREMENT FOR A CERTIFICATE
28 OF NEED. (a) A person may be exempt from the requirements of AS 18.-
29 07.031 only if the person applies to the department for the exemption

1 at least 30 days before the person agrees to spend money for the pro-
2 posed activity or contracts for the proposed activity.

3 (b) The department shall grant an exemption if the application is
4 made as provided in (a) of this section and the exemption is requested

5 (1) to acquire an existing health care facility if the
6 services or bed capacity of the facility are not changed;

7 (2) to acquire major medical equipment which is owned by or
8 located in a health care facility and is not used to provide services
9 for inpatients of a hospital;

10 (3) to provide inpatient institutional health services by

11 (A) a health maintenance organization if

12 (i) the organization has, in the service area of
13 the organization, an enrollment of at least 50,000 indivi-
14 duals,

15 (ii) the facility in which the service is provided
16 is geographically located so that the service is reasonably
17 accessible to the individuals enrolled with the organization,
18 and

19 (iii) at least 75 percent of the patients who can
20 reasonably be expected to receive the health service are
21 individuals enrolled with the organization;

22 (B) a health care facility if

23 (i) the health care facility primarily provides
24 inpatient services,

25 (ii) the facility is controlled by a health main-
26 tenance organization meeting the enrollment requirements set
27 out in (A) of this paragraph, and

28 (iii) the location and expected use of the facility
29 meet the requirements set out in (A) of this paragraph;

1 (C) a health care facility, or part of it, if

2 (1) the facility is leased by a health maintenance
3 organization meeting the enrollment requirements set out in
4 (A) of this paragraph,

5 (ii) at least 15 years remain in the term of the
6 lease, and

7 (iii) the location and expected use of the facility
8 meet the requirements set out in (A) of this paragraph.

9 (c) If a proposed health care facility, or part of it, does not
10 provide institutional health services by the date it files an applica-
11 tion for exemption for the facility, the facility shall meet the re-
12 quirements of (b)(3) of this section at the time the facility first
13 provides the service. The department shall approve the application for
14 exemption if it is determined that the applicable requirements of
15 (b)(3) of this section are met.

16 (d) An exemption granted under (b)(3) of this section does not,
17 with respect to a health care facility or medical equipment involved in
18 the exemption, apply to:

19 (1) a sale or lease by the recipient of the exemption after
20 the exemption is granted;

21 (2) the acquisition of a controlling interest in the facili-
22 ty or equipment after the exemption is granted;

23 (3) the use by any person other than the lessee of leased
24 facilities described in (b)(3)(C) of this section after the exemption
25 is granted.

26 * Sec. 5. AS 18.07.041 is amended to read:

27 Sec. 18.07.041. STANDARD OF REVIEW FOR APPLICATIONS FOR CERTIFI-
28 CATES OF NEED. The department [OFFICE] shall grant a sponsor a certi-
29 ficate of need or modify a certificate of need if the availability and

1 quality of existing health care resources or the accessibility to those
2 resources is less than the current or projected requirement for health
3 services required to maintain the good health of Alaska citizens.

4 * Sec. 6. AS 18.07.061 is amended to read:

5 Sec. 18.07.061. MODIFICATION AND TERMINATION OF ACTIVITIES. The
6 certificate holder shall apply to the department [OFFICE] for a modifi-
7 cation of the certificate of need before terminating part of the ac-
8 tivities authorized by the terms of issuance, but the certificate
9 holder is not required to obtain the acquiescence of the department
10 [OFFICE] before terminating all the activities authorized by the cer-
11 tificate of need. If a certificate holder terminates all of the ac-
12 tivities authorized by a certificate of need, the certificate holder is
13 required to notify the department [OFFICE] 60 days before termination
14 and to surrender the certificate of need to the department [OFFICE]
15 within 30 days of termination.

16 * Sec. 7. AS 18.07.071 is amended to read;

17 Sec. 18.07.071. EMERGENCY AND TEMPORARY [TEMPORARY AND EMERGENCY]
18 CERTIFICATES OF NEED. (a) The department [OFFICE] shall grant a
19 sponsor an emergency certificate of need for the construction of a
20 health care facility, health maintenance organization, rehabilitation
21 facility, or ambulatory care facility if the facility or service:

22 (1) is needed and consistent with the state health plan;

23 (2) is required to eliminate or prevent immediate safety
24 hazards as defined by federal, state or local fire, building or life
25 safety codes or regulations, or

26 (3) is required to comply with state licensure standards or
27 with accreditation standards necessary for the receipt of reimbursement
28 under Title XVIII of the Social Security Act (42 USC 1395) or payments
29 under the state plan for medical assistance approved under Title XIX of

1 the Social Security Act (42 USC 1396) [FOR WHICH A CERTIFICATE IS
2 REQUIRED UNDER AS 18.07.041 IF THE SPONSOR SHOWS, BY AFFIDAVIT OR
3 FORMAL HEARING, THAT THE ACT OF CONSTRUCTION CONSISTS OF EFFECTING
4 EMERGENCY REPAIRS].

5 (b) The department [OFFICE] may grant a sponsor a temporary
6 certificate of need for the temporary operation of a category of health
7 service, if the sponsor shows by affidavit or formal hearing

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

10 (2) adverse effect to the public interest by reason of delay
11 occasioned by compliance with the requirements of AS 18.07.041 and
12 application procedures prescribed by regulations under this chapter.

13 (c) The state agency shall review each affidavit requesting an
14 emergency or temporary certificate of need under the criteria set out
15 in (a) of this section.

16 (d) A temporary certificate of need granted under (a) [AND (b)]
17 of this section confers no vested rights on behalf of the applicant.
18 The department [OFFICE] shall impose those special limitations and
19 restrictions concerning duration and right of extension which the
20 department [OFFICE] considers appropriate. [NO TEMPORARY CERTIFICATE
21 MAY BE GRANTED FOR A PERIOD LONGER THAN NECESSARY FOR THE SPONSOR TO
22 OBTAIN REVIEW OF THE ACTION CERTIFIED BY THE TEMPORARY CERTIFICATE
23 UNDER AS 18.07.051. APPLICATION FOR A CERTIFICATE OF NEED UNDER AS
24 18.07.041 MUST COMMENCE WITHIN 60 DAYS OF THE DATE OF ISSUANCE OF THE
25 TEMPORARY CERTIFICATE.]

26 * Sec. 8. AS 18.07.081(a) is amended to read:

27 (a) The department [OFFICE], a member of the public who is sub-
28 stantially and adversely affected by activities authorized by the
29 certificate of need, or another applicant for a certificate of need

1 for a similar service within the same health service area may initiate
2 a hearing to obtain modification, suspension or revocation of an
3 existing certificate of need by filing an accusation with the commis-
4 sioner as prescribed under AS 44.62.360. No revocation, modification,
5 or suspension of an outstanding certificate of need may be undertaken
6 unless it is in accordance with AS 44.62.330 -- 44.62.630.

7 * Sec. 9. AS 18.07.081(c) is amended to read:

8 (c) A certificate of need shall be suspended if an accusation is
9 filed before the commencement of activities authorized under AS 18.07.-
10 041 which charges that factors upon which the certificate of need was
11 issued have changed, or new factors have been discovered which signifi-
12 cantly alter the need for the activity authorized. A suspension of a
13 certificate of need may not exceed 60 days. At the end of this period
14 or sooner, the department [OFFICE] shall revoke or reinstate the certi-
15 ficate of need.

16 * Sec. 10. AS 18.07.101 is amended to read:

17 Sec. 18.07.101. REGULATIONS. (a) The commissioner shall adopt,
18 in accordance with the Administrative Procedure Act (AS 44.62), regula-
19 tions which establish procedures and criteria under which sponsors may
20 make application for certificates of need required by this chapter and
21 which govern the review of those applications by the department and
22 health systems agencies [OFFICE], establish requirements for a uniform
23 statewide system of reporting financial and other operating data, and
24 otherwise carry out the purposes of this chapter.

25 (b) The commissioner may not adopt regulations which

26 (1) establish criteria for the review of applications for
27 emergency certificates other than those stated in AS 18.07.071; and

28 (2) establish criteria for the review of applications sub-
29 mitted by a health maintenance organization or a health care facility

1 other than those necessary to determine:

2 (A) the needs of existing or future members, and

3 (B) the ability of the organization to provide, through
4 services or facilities available to the organization, reasonable
5 and inexpensive institutional health services consistent with the
6 basic method of operation of the organization and the ability of
7 the organization to provide the services on a long-term basis
8 through physicians and other health professionals associated with
9 the organization.

10 (c) The commissioner shall adopt regulations which establish cri-
11 teria for the review of an application submitted by an osteopathic or
12 allopathic facility which include a determination of the need for and
13 availability of facilities for osteopathic or allopathic physicians,
14 their patients and the effect of the facility on training programs for
15 doctors of osteopathy and medicine.

16 * Sec. 11. AS 18.07.111(5) is amended to read:

17 (5) "council" means the Statewide Health Coordinating Council
18 organized and operated in accordance with sec. 1524, P.L. 93-641, as
19 amended by P.L. 96-79;

20 * Sec. 12. AS 18.07.111(9) is amended to read:

21 (9) "health systems agency" means an entity organized and
22 operated in accordance with sec. 1521(b), P.L. 93-641, as amended by
23 P.L. 96-79, engaging in health planning and development functions in a
24 specified health service area of the state;

25 * Sec. 13. AS 18.07.111 is amended by adding new paragraphs to read:

26 (12) "major medical equipment"

27 (A) means medical equipment which is used to provide
28 medical and other health services and which costs more than
29 \$150,000, and

1 (B) does not include medical equipment acquired by or
2 on behalf of a clinical laboratory which

3 (i) is not in or part of a physician's office or a
4 hospital; and

5 (ii) meets the requirements of 42 USC 1395;

6 (13) "health maintenance organization" means a health main-
7 tenance organization as defined in regulations adopted by the secretary
8 of the United States Department of Health and Human Services under the
9 Public Health Service Act (P.L. 93-641), as amended by P.L. 96-79;

10 (14) "rehabilitation facility" means an inpatient facility
11 which is operated primarily to assist in the rehabilitation of disabled
12 persons through an integrated program of medical and other health
13 services which are provided under competent professional supervision.

14 * Sec. 14. AS 18.07.111(10) and (11) are repealed.
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