

Original sponsor: Health, Education and
Social Services Committee

Offered: 4/21/82
Referred: Rules

1 IN THE SENATE

BY THE HEALTH, EDUCATION
AND SOCIAL SERVICES COMMITTEE

2 CS FOR SENATE BILL NO. 760 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to comprehensive health planning; and
7 providing for an effective date."

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

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

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

17 * Sec. 2. AS 18.07.021 is repealed and reenacted to read:

18 Sec. 18.07.021. STATE HEALTH PLANNING AND DEVELOPMENT AGENCY. The
19 state health planning and development agency in the department is the
20 state agency designated under sec. 1521(b)(3), P.L. 93-641, as amended.
21 The state agency shall

22 (1) administer the state program and perform the state func-
23 tions set out in secs. 1522, 1523, 1525, and 1526 of P.L. 93-641, as
24 amended;

25 (2) administer the certificate of need program set out in
26 sec. 1527 of P.L. 93-641, as amended, for a health care facility;

27 (3) conduct health system reviews under secs. 1523 and 1532
28 of P.L. 93-641, as amended;

29 (4) administer the grant, loan, and loan guarantee programs

1 for health facility construction, modernization, or conversion under
2 secs. 1620 - 1625 and secs. 1640 - 1643 of P.L. 93-641, as amended.

3 * Sec. 3. AS 18.07.031 is repealed and reenacted to read:

4 Sec. 18.07.031. CERTIFICATE OF NEED REQUIRED. (a) A person may
5 not undertake any of the following activities unless authorized under
6 the terms of a certificate of need or exempt from the requirement for a
7 certificate of need under the provisions of this chapter:

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

14 (b) This section applies to a health care facility controlled by a
15 health maintenance organization or an ambulatory care facility con-
16 trolled by a health maintenance organization if

17 (1) the organization or facility offers inpatient health care
18 services or acquires major medical equipment for use primarily for in-
19 patient health care; and

20 (2) the department does not grant the organization or faci-
21 lity an exemption under AS 18.07.032.

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

23 Sec. 18.07.032. EXEMPTION FROM THE REQUIREMENT FOR A CERTIFICATE
24 OF NEED. (a) The department shall grant an exemption from the require-
25 ments of AS 18.07.031 for the following purposes:

26 (1) to acquire an existing health care facility if the ser-
27 vices or bed capacity of the facility are not changed and if the acquisi-
28 tion cost does not exceed the average of three certified appraisals of
29 the fair market value of the facility;

1 (2) to acquire major medical equipment that is not owned by
2 or located in a health care facility and that is not used to provide
3 services for inpatients of a health care facility; or

4 (3) to provide inpatient institutional health services
5 through a health maintenance organization or at a health care facility
6 that is controlled by, or all or a portion of which is leased by, a
7 health maintenance organization if the applicant meets the requirements
8 of (c) of this section.

9 (b) The department shall grant an exemption under (a)(3) of this
10 section to

11 (1) a health maintenance organization if

12 (A) the organization has an enrollment of at least
13 50,000 individuals in the service area of the organization;

14 (B) the facility in which the service is provided is
15 located in a place that is reasonably accessible to the individuals
16 enrolled in the organization; and

17 (C) at least 75 percent of the patients who are expected
18 to receive the health service are individuals enrolled in the
19 organization;

20 (2) a health care facility if

21 (A) the health care facility primarily provides inpatient
22 services;

23 (B) the facility is controlled by a health maintenance
24 organization meeting the enrollment requirements set out in (1) of
25 this subsection; and

26 (C) the location and expected use of the facility meet
27 the requirements set out in (1) of this subsection;

28 (3) a health care facility, or part of it, if

29 (A) the facility is leased by a health maintenance

1 organization meeting the enrollment requirements set out in (1) of
2 this subsection;

3 (B) at least 15 years remain in the term of the lease;
4 and

5 (C) the location and expected use of the facility meet
6 the requirements set out in (1) of this subsection.

7 (c) If a proposed health care facility, or part of it, does not
8 provide institutional health services by the date it files an applica-
9 tion for exemption for the facility, the facility shall meet the re-
10 quirements of (b)(2) or (b)(3) of this section at the time the facility
11 first provides the service. The department shall approve the application
12 for exemption if it is determined that the requirements of (b)(2) or
13 (b)(3) of this section are met.

14 (d) An exemption granted under (b) of this section with respect to
15 a health care facility or medical equipment does not apply to

16 (1) a sale or lease of the facility or equipment by the
17 recipient of the exemption after the exemption is granted;

18 (2) the acquisition of a controlling interest in the facility
19 or equipment, or in a lease of the facility or equipment, after the
20 exemption is granted;

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

24 (e) An application for an exemption from the requirements of
25 AS 18.07.031 shall be submitted to the department at least 30 days
26 before the applicant obligates money for the proposed activity or con-
27 tracts for the proposed activity.

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

29 Sec. 18.07.041. STANDARD OF REVIEW FOR APPLICATIONS FOR CERTIFI-

1 CATES OF NEED. The department [OFFICE] shall grant a sponsor a certi-
2 ficate of need or modify a certificate of need if the availability and
3 quality of existing health care resources or the accessibility to those
4 resources is less than the current or projected requirement for health
5 services required to maintain the good health of Alaska citizens.

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

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

18 * Sec. 7. AS 18.07.071 is repealed and reenacted to read;

19 Sec. 18.07.071. EMERGENCY AND TEMPORARY CERTIFICATES OF NEED. (a)
20 The department shall grant a sponsor an emergency certificate of need
21 for the construction of a health care facility or ambulatory care facil-
22 ity or for the development of a health maintenance organization if the
23 facility or service is consistent with the state health plan and

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

27 (2) is required to comply with licensure standards under
28 AS 18.20 or with accreditation standards necessary for the receipt of
29 reimbursement under Title XVIII of the Social Security Act (42 U.S.C.

1 1395) or payments under the state plan for medical assistance approved
2 under Title XIX of the Social Security Act (42 U.S.C. 1396).

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

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

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

11 (c) A temporary certificate of need granted under (b) of this
12 section confers no vested rights on behalf of the applicant. The depart-
13 ment shall impose those special limitations and restrictions concerning
14 duration and right of extension that the department considers appropri-
15 ate.

16 (d) The state agency shall review each affidavit requesting an
17 emergency or temporary certificate of need under the criteria set out in
18 (a) of this section.

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

20 (a) The department [OFFICE], a member of the public who is sub-
21 stantially and adversely affected by activities authorized by the certi-
22 ficate of need, or another applicant for a certificate of need for a
23 similar service within the same health service area may initiate a
24 hearing to obtain modification, suspension, or revocation of an existing
25 certificate of need by filing an accusation with the commissioner as
26 prescribed under AS 44.62.360. No revocation, modification, or suspen-
27 sion of an outstanding certificate of need may be undertaken unless it
28 is in accordance with AS 44.62.330 - 44.62.630.

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

1 (c) A certificate of need shall be suspended if an accusation is
2 filed before the commencement of activities authorized under AS 18.07.-
3 041 which charges that factors upon which the certificate of need was
4 issued have changed, or new factors have been discovered which signifi-
5 cantly alter the need for the activity authorized. A suspension of a
6 certificate of need may not exceed 60 days. At the end of this period
7 or sooner, the department [OFFICE] shall revoke or reinstate the certi-
8 ficate of need.

9 * Sec. 10. AS 18.07.101 is repealed and reenacted to read:

10 Sec. 18.07.101. REGULATIONS. (a) The commissioner shall adopt,
11 in accordance with the Administrative Procedure Act (AS 44.62), regula-
12 tions that establish procedures and criteria under which sponsors may
13 make application for certificates of need required by this chapter and
14 that govern the review of those applications by the department and
15 health systems agencies, establish requirements for a uniform statewide
16 system of reporting financial and other operating data, and otherwise
17 carry out the purposes of this chapter.

18 (b) The commissioner may not adopt regulations that

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

21 (2) establish criteria for the review of applications sub-
22 mitted by a health maintenance organization, or a health care facility
23 controlled by a health maintenance organization, other than those neces-
24 sary to determine

25 (A) the needs of existing or future members; and

26 (B) the ability of the organization to provide, through
27 services or facilities available to the organization, reasonable
28 and inexpensive institutional health services consistent with the
29 basic method of operation of the organization and the ability of

1 the organization to provide the services on a long-term basis
2 through physicians and other health professionals associated with
3 the organization.

4 (c) The commissioner shall adopt regulations that establish cri-
5 teria for the review of an application submitted by an osteopathic or
6 allopathic facility that include a determination of the need for and
7 availability of facilities for osteopathic or allopathic physicians,
8 their patients, and the effect of the facility on training programs for
9 doctors of osteopathy and medicine.

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

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

14 * Sec. 12. AS 18.07.111(7) is amended to read:

15 (7) "health care facility" means a private, municipal, state
16 or federal hospital, psychiatric hospital, tuberculosis hospital, skilled
17 nursing facility, kidney disease treatment center (including freestanding
18 hemodialysis units), intermediate care facility, rehabilitation facility,
19 and ambulatory surgical facility; the term excludes

20 (A) an Alaska Pioneers' Home administered by the Depart-
21 ment of Administration under AS 44.21.020 (10) and AS 47.25.010 -
22 47.25.100; and

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

25 * Sec. 13. AS 18.07.111(9) is amended to read:

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

1 * Sec. 14. AS 18.07.111 is amended by adding new paragraphs to read:

2 (12) "major medical equipment"

3 (A) means medical equipment that is used to provide
4 medical and other health services and that costs more than \$400,000;
5 and

6 (B) does not include medical equipment acquired by or on
7 behalf of a clinical laboratory that

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

10 (ii) meets the requirements of 42 U.S.C. 1395;

11 (13) "health maintenance organization" means a health main-
12 tenance organization as defined in regulations adopted by the Secretary
13 of the United States Department of Health and Human Services under the
14 Public Health Service Act, P.L. 93-641, as amended;

15 (14) "rehabilitation facility" means an inpatient facility
16 that is operated primarily to assist in the rehabilitation of disabled
17 persons through an integrated program of medical and other health ser-
18 vices that are provided under competent professional supervision;

19 (15) "state agency" means the state health planning and
20 development agency.

21 * Sec. 15. AS 18.26.030(a)(4)(A) is amended to read:

22 (A) each health systems agency in the state, organized
23 and operated in accordance with sec. 1512, P.L. 93-641 as amended,
24 which shall submit three nominees from among the members of that
25 agency;

26 * Sec. 16. AS 47.30.475(b) is amended to read:

27 (b) Money available under this section shall be awarded by the
28 department to applicants on the basis of community need, but only if the
29 award is consistent with the annual implementation plan developed under

1 sec. 1513(b)(2) of P.L. 93-641 as amended by the health systems agency
2 for the health system area in which the applicant is located and the
3 state health plan developed by the Statewide Health Coordinating Council
4 under sec. 1524(c)(2)(A) of P.L. 93-641 as amended, and only after
5 consideration of comment and advice of the Advisory Board on Alcoholism.
6 In awarding grants, the department shall further consider the amount of
7 money that is available for all applications and whether an application
8 would contribute to the wise development of a comprehensive program of
9 alcoholic rehabilitation and prevention.

10 * Sec. 17. AS 47.30.475(e)(4) is amended to read:

11 (4) coordination with the goals and objectives of the health
12 systems plan developed by the health systems agencies under sec. 1513-
13 (b)(2) of P.L. 93-641, as amended.

14 * Sec. 18. AS 18.07.111(10) and (11) are repealed.

15 * Sec. 19. This Act takes effect immediately in accordance with AS 01.10.-
16 070(c).