
A BILL FOR AN ACT

RELATING TO THE STATE HEALTH PLANNING AND DEVELOPMENT AGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 323D-12, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§323D-12 Health planning and development functions; state**
4 **agency[-]; department of health.** (a) The state agency or
5 department of health shall:

6 (1) Have as a principal function the responsibility for
7 promoting accessibility for all the people of the
8 State to quality health care services at reasonable
9 cost. The state agency or department of health shall
10 conduct such studies and investigations as may be
11 necessary as to the causes of health care costs
12 including inflation. The state agency or department
13 of health may contract for services to implement this
14 paragraph. The certificate of need program mandated
15 under part V shall serve this function. The state
16 agency or department of health shall promote the
17 sharing of facilities or services by health care



1 providers whenever possible to achieve economies and
2 shall restrict unusual or unusually costly services to
3 individual facilities or providers where appropriate;
4 (2) Serve as staff to and provide technical assistance and
5 advice to the statewide council and the subarea
6 councils in the preparation, review, and revision of
7 the state health services and facilities plan;
8 (3) Conduct the health planning activities of the State in
9 coordination with the subarea councils, implement the
10 state health services and facilities plan, and
11 determine the statewide health needs of the State
12 after consulting with the statewide council; ~~and~~
13 (4) Administer the state certificate of need program
14 pursuant to part V[-]; and
15 (5) Prepare and revise as necessary the state health
16 services and facilities plan every five years.
17 (b) The state agency or the department of health may:
18 (1) Prepare such reports and recommendations on Hawaii's
19 health care costs and public or private efforts to
20 reduce or control costs and health care quality as it
21 deems necessary. The report may include[-] but not be



1 limited to~~[7]~~ a review of health insurance plans, the
 2 availability of various kinds of health insurance and
 3 malpractice insurance to consumers, and strategies for
 4 increasing competition in the health insurance field~~[7]~~
 5 ~~(2) Prepare and revise as necessary the state health~~
 6 ~~services and facilities plan~~[7]~~];~~
 7 ~~[+3]~~ (2) Prepare, review, and revise the annual
 8 implementation plan~~[7]~~;
 9 ~~[+4]~~ (3) Assist the statewide council in the performance
 10 of its functions~~[7]~~;
 11 ~~[+5]~~ (4) Determine the need for new health services
 12 proposed to be offered within the State~~[7]~~;
 13 ~~[+6]~~ (5) Assess existing health care services and
 14 facilities to determine whether there are redundant,
 15 excessive, or inappropriate services or facilities and
 16 make public findings of any that are found to be so.
 17 The state agency shall weigh the costs of the health
 18 care services or facilities against the benefits the
 19 services or facilities provide and there shall be a
 20 negative presumption against marginal services~~[7]~~;



1 ~~[(7)]~~ (6) Provide technical assistance to persons, public
2 or private, in obtaining and filling out the necessary
3 forms for the development of projects and programs~~[-]~~;
4 ~~[(8)]~~ (7) Prepare reports, studies, and recommendations on
5 emerging health issues, such as medical ethics, health
6 care rationing, involuntary care, care for the
7 indigent, and standards for research and development
8 of biotechnology and genetic engineering~~[-]~~; and
9 ~~[(9)]~~ (8) Conduct such other activities as are necessary to
10 meet the purposes of this chapter."

11 SECTION 2. Section 323D-12.6, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "~~[(1)]~~**§323D-12.6**~~[(1)]~~ **State health planning and development**
14 **special fund; created; deposits; expenditures; fees.** (a) There
15 is established within the state treasury, to be administered by
16 the state health planning and development agency, the state
17 health planning and development special fund into which shall be
18 deposited all moneys collected under this chapter ~~[323D]~~.

19 (b) Moneys in the special fund shall be expended by the
20 state health planning and development agency to assist in
21 offsetting program expenses of the agency.



1 (c) All unencumbered and unexpended moneys in excess of
2 \$2,000,000 remaining on balance in the special fund at the close
3 of June 30 of each year shall lapse to the credit of the general
4 fund.

5 [~~e~~] (d) The agency shall adopt rules in accordance with
6 chapter 91 to establish reasonable fees for the purposes of this
7 chapter."

8 SECTION 3. Section 323D-50, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§323D-50 Certificates of need, penalties.** (a) Any
11 person who violates any provision of this part, or rules
12 thereunder, with respect to the requirement for certificate of
13 need shall be guilty of a misdemeanor for each seven-day period
14 or fraction thereof that the violation continues. Each
15 subsequent seven-day period shall constitute a separate offense.

16 (b) Any license to operate a health facility may be
17 revoked or suspended by the department of health at any time in
18 a proceeding before the department for any person proceeding
19 with an action covered under section 323D-43 without a
20 certificate of need. If any such license is revoked or
21 suspended by the department, the holder of the license shall be



1 notified in writing by the department of the revocation or
2 suspension. Any license to operate a health facility that has
3 been revoked under this section shall not be restored except by
4 action of the department.

5 (c) Any person who violates any provision of this chapter
6 or rules adopted under this chapter, with respect to the
7 agency's requests for reporting, may be subject to an
8 administrative penalty not to exceed \$2,000 for each seven-day
9 period or fraction thereof that the violation continues. The
10 administrator of the state agency may impose the administrative
11 penalty specified in this section by order; provided that no
12 penalty shall be assessed unless the person charged shall have
13 been given notice and an opportunity for a hearing pursuant to
14 chapter 91. The administrative penalty contained in the notice
15 of finding of violation shall become a final order unless,
16 within twenty days of receipt of the notice, the person charged
17 makes a written request for a hearing. For any judicial
18 proceeding to recover the administrative penalty imposed, the
19 administrator need only show that notice was given, a hearing
20 was held or the time granted for requesting a hearing has



1 expired without such a request, the administrative penalty was
2 imposed, and that the penalty remains unpaid.

3 (d) Any person who violates or fails to act in compliance
4 with an approved certificate of need granted by the state agency
5 may be subject to an administrative penalty not to exceed \$5,000
6 for each seven-day period or fraction thereof that the violation
7 continues."

8 SECTION 4. Section 323D-54, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§323D-54 Exemptions from certificate of need**
11 **requirements.** Nothing in this part or rules with respect to the
12 requirement for certificates of need applies to:

13 (1) Offices of physicians, dentists, or other
14 practitioners of the healing arts in private practice
15 as distinguished from organized ambulatory health care
16 facilities, except in any case of purchase or
17 acquisition of equipment attendant to the delivery of
18 health care service and the instruction or supervision
19 for any private office or clinic involving a total
20 expenditure in excess of the expenditure minimum;



- 1 (2) Laboratories, as defined in section 321-11(12), except
2 in any case of purchase or acquisition of equipment
3 attendant to the delivery of health care service and
4 the instruction or supervision for any laboratory
5 involving a total expenditure in excess of the
6 expenditure minimum;
- 7 (3) Dispensaries and first aid stations located within
8 business or industrial establishments and maintained
9 solely for the use of employees; provided such
10 facilities do not regularly provide inpatient or
11 resident beds for patients or employees on a daily
12 twenty-four-hour basis;
- 13 (4) Dispensaries or infirmaries in correctional or
14 educational facilities;
- 15 (5) Dwelling establishments, such as hotels, motels, and
16 rooming or boarding houses that do not regularly
17 provide health care facilities or health care
18 services;
- 19 (6) Any home or institution conducted only for those who,
20 pursuant to the teachings, faith, or belief of any



- 1 group, depend for healing upon prayer or other
2 spiritual means;
- 3 (7) Dental clinics;
- 4 (8) Nonpatient areas of care facilities such as parking
5 garages and administrative offices;
- 6 (9) Bed changes that involve ten per cent or ten beds of
7 existing licensed bed types, whichever is less, of a
8 facility's total existing licensed beds within a
9 two-year period;
- 10 (10) Projects that are wholly dedicated to meeting the
11 State's obligations under court orders, including
12 consent decrees, that have already determined that
13 need for the projects exists;
- 14 (11) Replacement of existing equipment with its modern-day
15 equivalent;
- 16 (12) Primary care clinics under the expenditure thresholds
17 referenced in section 323D-2;
- 18 (13) Equipment and services related to that equipment, that
19 are primarily invented and used for research purposes
20 as opposed to usual and customary diagnostic and
21 therapeutic care;



- 1 (14) Capital expenditures that are required:
- 2 (A) To eliminate or prevent imminent safety hazards
- 3 as defined by federal, state, or county fire,
- 4 building, or life safety codes or regulations;
- 5 (B) To comply with state licensure standards; or
- 6 (C) To comply with accreditation standards,
- 7 compliance with which is required to receive
- 8 reimbursements under Title XVIII of the Social
- 9 Security Act or payments under a state plan for
- 10 medical assistance approved under Title XIX of
- 11 such Act;
- 12 (15) Extended care adult residential care homes and
- 13 assisted living facilities; [~~or~~]
- 14 (16) Psychiatric services; provided that for purposes of
- 15 this paragraph, "psychiatric services" means services
- 16 for the diagnosis and treatment of mental illness or
- 17 mental disorders in persons;
- 18 (17) Chronic renal dialysis services; provided that for
- 19 purposes of this paragraph, "chronic renal dialysis
- 20 services" means services for the treatment of
- 21 irreversible kidney failure involving the removal of



1 waste substance from a patient's blood by hemodialysis
2 or peritoneal dialysis; or
3 ~~[(16)]~~ (18) Other facilities or services that the agency
4 through the statewide council chooses to exempt, by
5 rules pursuant to section 323D-62."

6 SECTION 5. (a) The department of health shall conduct a
7 study to assess the efficacy of sections 1 through 4 of this Act
8 in accomplishing the department's cost saving goals and any
9 other effects this Act has had on the certificate of need
10 program and the general health care community.

11 (b) The department of health shall submit a report of its
12 findings and recommendations, including any proposed
13 legislation, to the legislature no later than twenty days prior
14 to the convening of the regular session of 2027.

15 SECTION 6. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 7. This Act shall take effect on July 1, 2021;
18 provided that this Act shall be repealed on July 1, 2026.



Report Title:

DOH; Certificates of Need; State Health Planning and Development Agency; Exemptions; Penalties; Study

Description:

Authorizes the department of health to perform the duties required of the state health planning and development agency. Requires the state health planning and development agency or department of health to update the state health services and facilities plan every five years. Transfers moneys in excess of \$2,000,000 in the state health planning and development special fund to the general fund at the end of each fiscal year. Authorizes administrative penalties for persons who do not comply with an approved certificate of need. Exempts chronic renal dialysis services and psychiatric services from the certificate of need requirements. Requires the department of health to conduct a study on the efficacy of the measure after its repeal. Sunsets 7/1/2026. (CD1)

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