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# 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 PART I

2 SECTION 1. Section 323D-12.6, Hawaii Revised Statutes, is  
3 amended to read as follows:

4 "[~~§~~323D-12.6~~§~~] **State health planning and development**  
5 **special fund; created; deposits; expenditures; fees.** (a) There  
6 is established within the state treasury, to be administered by  
7 [~~the state health planning and development agency~~] \_\_\_\_\_,  
8 the state health planning and development special fund into  
9 which shall be deposited all moneys collected under this chapter  
10 [~~323D~~].

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

14 (c) All unencumbered and unexpended moneys in excess of  
15 \$2,000,000 remaining on balance in the special fund at the close  
16 of June 30 of each year shall lapse to the credit of the general  
17 fund.



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

4        SECTION 2. Section 323D-47, Hawaii Revised Statutes, is  
5 amended to read as follows:

6        "**§323D-47 Request for reconsideration.** The state agency  
7 may provide by rules adopted in conformity with chapter 91 for a  
8 procedure by which any person may, for good cause shown, request  
9 in writing a public hearing before a reconsideration committee  
10 for purposes of reconsideration of the agency's decision. The  
11 reconsideration committee shall consist of the administrator of  
12 the state agency and the chairpersons of the statewide council,  
13 the review panel, the plan development committee of the  
14 statewide council, and the appropriate subarea health planning  
15 council. The administrator shall be the chairperson of the  
16 reconsideration committee. A request for a public hearing shall  
17 be deemed by the reconsideration committee to have shown good  
18 cause, if:

- 19        (1) It presents significant, relevant information not  
20                previously considered by the state agency;



- 1 (2) It demonstrates that there have been significant  
2 changes in factors or circumstances relied upon by the  
3 state agency in reaching its decision;
- 4 (3) It demonstrates that the state agency has materially  
5 failed to follow its adopted procedures in reaching  
6 its decision;
- 7 (4) It provides such other bases for a public hearing as  
8 the state agency determines constitutes good causes;  
9 or
- 10 (5) The decision of the administrator differs from the  
11 recommendation of the statewide council.

12 To be effective, a request for [~~such~~] a public hearing and a fee  
13 of \$ \_\_\_\_\_ shall be received within ten working days of the  
14 state agency decision. A decision of the reconsideration  
15 committee following a public hearing under this section shall be  
16 considered a decision of the state agency for purposes of  
17 section 323D-44."

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

20 "**§323D-50 Certificates of need, penalties.** (a) Any  
21 person who violates any provision of this part, or rules



1 thereunder, with respect to the requirement for certificate of  
2 need shall be guilty of a misdemeanor for each seven-day period  
3 or fraction thereof that the violation continues. Each  
4 subsequent seven-day period shall constitute a separate offense.

5 (b) Any license to operate a health facility may be  
6 revoked or suspended by the department of health at any time in  
7 a proceeding before the department for any person proceeding  
8 with an action covered under section 323D-43 without a  
9 certificate of need. If any such license is revoked or  
10 suspended by the department, the holder of the license shall be  
11 notified in writing by the department of the revocation or  
12 suspension. Any license to operate a health facility that has  
13 been revoked under this section shall not be restored except by  
14 action of the department.

15 (c) Any person who violates any provision of this chapter  
16 or rules adopted under this chapter, with respect to the  
17 agency's requests for reporting, may be subject to an  
18 administrative penalty not to exceed \$2,000 for each seven-day  
19 period or fraction thereof that the violation continues. The  
20 administrator of the state agency may impose the administrative  
21 penalty specified in this section by order; provided that no



1 penalty shall be assessed unless the person charged shall have  
2 been given notice and an opportunity for a hearing pursuant to  
3 chapter 91. The administrative penalty contained in the notice  
4 of finding of violation shall become a final order unless,  
5 within twenty days of receipt of the notice, the person charged  
6 makes a written request for a hearing. For any judicial  
7 proceeding to recover the administrative penalty imposed, the  
8 administrator need only show that notice was given, a hearing  
9 was held or the time granted for requesting a hearing has  
10 expired without such a request, the administrative penalty was  
11 imposed, and that the penalty remains unpaid.

12 (d) Any person who violates or fails to act in compliance  
13 with an approved certificate of need granted by the state agency  
14 may be subject to an administrative penalty not to exceed  
15 \$ \_\_\_\_\_ for each seven-day period or fraction thereof that  
16 the violation continues."

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

19 **"§323D-54 Exemptions from certificate of need**  
20 **requirements.** Nothing in this part or rules with respect to the  
21 requirement for certificates of need applies to:



- 1           (1) Offices of physicians, dentists, or other  
2           practitioners of the healing arts in private practice  
3           as distinguished from organized ambulatory health care  
4           facilities, except in any case of purchase or  
5           acquisition of equipment attendant to the delivery of  
6           health care service and the instruction or supervision  
7           for any private office or clinic involving a total  
8           expenditure in excess of the expenditure minimum;
- 9           (2) Laboratories, as defined in section 321-11(12), except  
10          in any case of purchase or acquisition of equipment  
11          attendant to the delivery of health care service and  
12          the instruction or supervision for any laboratory  
13          involving a total expenditure in excess of the  
14          expenditure minimum;
- 15          (3) Dispensaries and first aid stations located within  
16          business or industrial establishments and maintained  
17          solely for the use of employees; provided such  
18          facilities do not regularly provide inpatient or  
19          resident beds for patients or employees on a daily  
20          twenty-four-hour basis;



- 1 (4) Dispensaries or infirmaries in correctional or  
2 educational facilities;
- 3 (5) Dwelling establishments, such as hotels, motels, and  
4 rooming or boarding houses that do not regularly  
5 provide health care facilities or health care  
6 services;
- 7 (6) Any home or institution conducted only for those who,  
8 pursuant to the teachings, faith, or belief of any  
9 group, depend for healing upon prayer or other  
10 spiritual means;
- 11 (7) Dental clinics;
- 12 (8) Nonpatient areas of care facilities such as parking  
13 garages and administrative offices;
- 14 (9) Bed changes that involve ten per cent or ten beds of  
15 existing licensed bed types, whichever is less, of a  
16 facility's total existing licensed beds within a two-  
17 year period;
- 18 (10) Projects that are wholly dedicated to meeting the  
19 State's obligations under court orders, including  
20 consent decrees, that have already determined that  
21 need for the projects exists;



- 1 (11) Replacement of existing equipment with its modern-day  
2 equivalent;
- 3 (12) Primary care clinics under the expenditure thresholds  
4 referenced in section 323D-2;
- 5 (13) Equipment and services related to that equipment, that  
6 are primarily invented and used for research purposes  
7 as opposed to usual and customary diagnostic and  
8 therapeutic care;
- 9 (14) Capital expenditures that are required:
- 10 (A) To eliminate or prevent imminent safety hazards  
11 as defined by federal, state, or county fire,  
12 building, or life safety codes or regulations;
- 13 (B) To comply with state licensure standards; or
- 14 (C) To comply with accreditation standards,  
15 compliance with which is required to receive  
16 reimbursements under Title XVIII of the Social  
17 Security Act or payments under a state plan for  
18 medical assistance approved under Title XIX of  
19 such Act;
- 20 (15) Extended care adult residential care homes and  
21 assisted living facilities; [~~or~~]



- 1       (16) Psychiatric services as defined in section 11-186-3,
- 2             Hawaii administrative rules;
- 3       (17) Special treatment facilities as defined in section
- 4             11-186-3, Hawaii administrative rules;
- 5       (18) Chronic renal dialysis services as defined in section
- 6             11-186-3, Hawaii administrative rules; or
- 7       (19) Other facilities or services that the agency through
- 8             the statewide council chooses to exempt, by rules
- 9             pursuant to section 323D-62."

PART II

11       SECTION 5. There is appropriated out of the state health  
12 planning and development special fund the sum of \$             or  
13 so much thereof as may be necessary for fiscal year 2021-2022  
14 and the same sum or so much thereof as may be necessary for  
15 fiscal year 2022-2023 for the hiring of             full-time  
16 equivalent (    .0 FTE) permanent positions within the state  
17 health planning and development agency, including  
18 full-time equivalent (    .0 FTE) investigators.

19       The sums appropriated shall be expended by the department  
20 of health for the purposes of this Act.



PART III

SECTION 6. The position within the state health planning and development agency previously funded by general funds shall be funded from the health planning and development special fund.

SECTION 7. There is appropriated out of the state health planning and development special fund the sum of \$ or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 to fund the position within the state health planning and development agency.

The sums appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 2060.



**Report Title:**

Department of Health; Certificates of Need; State Health Planning and Development Agency; Exemptions; Penalties; Appropriation

**Description:**

Exempts psychiatric services, special treatment facilities, and chronic renal dialysis services from the certificate of need requirements. Authorizes administrative penalties for persons who do not comply with an approved certificate of need. Appropriates funds from the health planning development fund. Effective 7/1/2060. (HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

