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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, Hawaii Revised Statutes, is  
3 amended to read as follows:

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

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



- 1 sharing of facilities or services by health care  
2 providers whenever possible to achieve economies and  
3 shall restrict unusual or unusually costly services to  
4 individual facilities or providers where appropriate;
- 5 (2) Serve as staff to and provide technical assistance and  
6 advice to the statewide council and the subarea  
7 councils in the preparation, review, and revision of  
8 the state health services and facilities plan;
- 9 (3) Conduct the health planning activities of the State in  
10 coordination with the subarea councils, implement the  
11 state health services and facilities plan, and  
12 determine the statewide health needs of the State  
13 after consulting with the statewide council; [~~and~~]
- 14 (4) Administer the state certificate of need program  
15 pursuant to part V[-]; and
- 16 (5) Prepare and revise as necessary the state health  
17 services and facilities plan every five years.
- 18 (b) The state agency or the department of health may:
- 19 (1) Prepare such reports and recommendations on Hawaii's  
20 health care costs and public or private efforts to  
21 reduce or control costs and health care quality as it



1           deems necessary. The report may include, but not be  
2           limited to, a review of health insurance plans, the  
3           availability of various kinds of health insurance and  
4           malpractice insurance to consumers, and strategies for  
5           increasing competition in the health insurance  
6           field[-] i;

7       ~~[(2) Prepare and revise as necessary the state health~~  
8       ~~services and facilities plan.]~~

9       ~~[(3)]~~ (2) Prepare, review, and revise the annual  
10       implementation plan[-] i;

11       ~~[(4)]~~ (3) Assist the statewide council in the performance  
12       of its functions[-] i;

13       ~~[(5)]~~ (4) Determine the need for new health services  
14       proposed to be offered within the State[-] i;

15       ~~[(6)]~~ (5) Assess existing health care services and  
16       facilities to determine whether there are redundant,  
17       excessive, or inappropriate services or facilities and  
18       make public findings of any that are found to be so.  
19       The state agency shall weigh the costs of the health  
20       care services or facilities against the benefits the



1 services or facilities provide and there shall be a  
2 negative presumption against marginal services[-];  
3 ~~[-(7)-]~~ (6) Provide technical assistance to persons, public  
4 or private, in obtaining and filling out the necessary  
5 forms for the development of projects and programs[-];  
6 ~~[-(8)-]~~ (7) Prepare reports, studies, and recommendations on  
7 emerging health issues, such as medical ethics, health  
8 care rationing, involuntary care, care for the  
9 indigent, and standards for research and development  
10 of biotechnology and genetic engineering[-]; and  
11 ~~[-(9)-]~~ (8) Conduct such other activities as are necessary to  
12 meet the purposes of this chapter."

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

15 "~~[-]~~§323D-12.6~~[-]~~ State health planning and development  
16 special fund; created; deposits; expenditures; fees. (a) There  
17 is established within the state treasury, to be administered by  
18 ~~[the state health planning and development agency,]~~ \_\_\_\_\_,  
19 the state health planning and development special fund into  
20 which shall be deposited all moneys collected under this chapter  
21 ~~[323D]~~ .



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

4 (c) All unencumbered and unexpended moneys in excess of  
5 \$2,000,000 remaining on balance in the special fund at the close  
6 of June 30 of each year shall lapse to the credit of the general  
7 fund.

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

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

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

19 (b) Any license to operate a health facility may be  
20 revoked or suspended by the department of health at any time in  
21 a proceeding before the department for any person proceeding



1 with an action covered under section 323D-43 without a  
2 certificate of need. If any such license is revoked or  
3 suspended by the department, the holder of the license shall be  
4 notified in writing by the department of the revocation or  
5 suspension. Any license to operate a health facility that has  
6 been revoked under this section shall not be restored except by  
7 action of the department.

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



1 administrator need only show that notice was given, a hearing  
2 was held or the time granted for requesting a hearing has  
3 expired without such a request, the administrative penalty was  
4 imposed, and that the penalty remains unpaid.

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

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

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

15 (1) Offices of physicians, dentists, or other  
16 practitioners of the healing arts in private practice  
17 as distinguished from organized ambulatory health care  
18 facilities, except in any case of purchase or  
19 acquisition of equipment attendant to the delivery of  
20 health care service and the instruction or supervision



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



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



- 1 as opposed to usual and customary diagnostic and  
2 therapeutic care;
- 3 (14) Capital expenditures that are required:
- 4 (A) To eliminate or prevent imminent safety hazards  
5 as defined by federal, state, or county fire,  
6 building, or life safety codes or regulations;
- 7 (B) To comply with state licensure standards; or
- 8 (C) To comply with accreditation standards,  
9 compliance with which is required to receive  
10 reimbursements under Title XVIII of the Social  
11 Security Act or payments under a state plan for  
12 medical assistance approved under Title XIX of  
13 such Act;
- 14 (15) Extended care adult residential care homes and  
15 assisted living facilities; [~~or~~]
- 16 (16) Psychiatric services as defined in section 11-186-3,  
17 Hawaii administrative rules;
- 18 (17) Special treatment facilities as defined in section  
19 11-186-3, Hawaii administrative rules;
- 20 (18) Chronic renal dialysis services as defined in section  
21 11-186-3, Hawaii administrative rules; or



1        [~~(16)~~] (19) Other facilities or services that the agency  
2                    through the statewide council chooses to exempt, by  
3                    rules pursuant to section 323D-62."

4                    PART II

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

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

15                    PART III

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

20            SECTION 7. There is appropriated out of the state health  
21 planning and development special fund the sum of \$                    or



1 so much thereof as may be necessary for fiscal year 2021-2022  
2 and the same sum or so much thereof as may be necessary for  
3 fiscal year 2022-2023 to fund the position within the  
4 state health planning and development agency.

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

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

9 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:**

Requires the state health planning and development agency or department of health to update the state health services and facilities plan every five years. Authorizes the department of health to perform the duties required of the state health planning and development agency. 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. 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. (SD1)

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

