

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 857

S. P. 283

In Senate, March 1, 1979

Referred to the Committee on Health and Institutional Services. Sent down for concurrence and ordered printed.

Presented by Senator Najarian of Cumberland.

MAY M. ROSS, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Amend the Maine Certificate of Need Act of 1978.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 22 MRSA § 303, sub-§ 7, first sentence, as enacted by PL 1977, c. 687, § 1, is amended to read:

“Health care facility” means any facility, whether public or private, proprietary or not for profit, required to obtain a certificate of need in accordance with federal laws and regulations under the National Health Planning and Resources Development Act of 1974, or any amendment, and shall include hospitals, psychiatric hospitals, tuberculosis hospitals, skilled nursing facilities, kidney disease treatment centers including free standing hemodialysis units, intermediate care facilities, ambulatory surgical facilities, home health care providers certifiable under Title XVIII of the Federal Social Security Act of 1965, as amended, **persons who provide the services of registered professional nurses, licensed practical nurses and nurses aides to individuals in their homes** and health maintenance organizations.

Sec. 2. 22 MRSA § 304, sub-§ 1, ¶C, as enacted by PL 1977, c. 687, § 1, is repealed and the following enacted in its place:

C. Any change in the existing bed complement of a health care facility which:

- (1) Increases or decreases the licensed bed capacity of the health care facility by more than 10% or more than 5 beds, whichever is less;**
- (2) Increases or decreases the number of beds used to provide a particular category or type of care by more than 10% of that number or more than 5 beds, whichever is less; or**
- (3) Relocates more than 10% of the health care facility's licensed beds or more than 5 beds, whichever is less, from one physical plant to another;**

Sec. 3. 22 MRSA § 304, sub-§ 1, ¶ E is enacted to read:

E. Any expenditure by a health care facility to:

- (1) Directly employ a physician or group of physicians;**
- (2) Purchase the administrative, supervisory or professional services of a physician or group of physicians; or**
- (3) Subsidize the establishment and operation of the practice of a physician or group of physicians.**

Sec. 4. 22 MRSA § 304, sub-§ 1-A is enacted to read:

1-A. Equipment. The acquisition by any person of any diagnostic or therapeutic equipment which the department has determined constitutes a new health service when acquired by a health care facility.

STATEMENT OF FACT

The present definition of the term "health care facility" includes home health care providers certifiable under Title XVIII of the Federal Social Security Act of 1965, as amended, and the establishment of such a facility requires a certificate of need. A person who wishes to provide nursing services to individuals in their homes but does not wish to meet the requirements for certification under Title XVIII is not required to obtain a certificate of need. Section 1 of the bill would eliminate that discrepancy. Its adoption will require all those who wish to provide nursing services to individuals in their homes to demonstrate that such services are needed and would not have an undesirable impact on the cost of health care services.

Section 2 of the bill would clarify the present requirement that a health care facility obtain a certificate of need before making certain changes in its existing bed complement. The clarification is needed to assure that this requirement is clearly understood by all parties and administered in a consistent manner.

Expenditures made by health care facilities to retain physicians' services can have a greater impact on the cost of the services they provide than major capital expenditures. Given the rapid increases in the cost of health care services which have characterized the past decade and the desirability of restraining the

increases in the future the proposed requirement that health care facilities seek and receive a certificate of need before making these expenditures for physicians services is clearly in the public interest.

To implement the Maine Certificate of Need Act the Department of Human Services has adopted rules and regulations in accordance with the provisions of the Administrative Procedure Act. In doing so it has identified a limited number of new health services which can be established by the acquisition of a single piece of equipment. Health care facilities which wish to establish a new health service by acquiring this equipment are required to seek and receive a certificate of need. Section 3 of this bill would correct a major weakness of the Act by requiring anyone who wishes to acquire this equipment to also obtain a certificate of need.