

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 849

6
7 H.P. 578

House of Representatives, February 28, 1985

8 On Motion of Representative Nelson of Portland, referred to the
9 Committee on Human Resources. Sent up for concurrence and ordered
printed.

EDWIN H. PERT, Clerk

10 Presented by Representative Rolde of York.

Cosponsored by Representative Murray of Bangor, Representative
11 Ingraham of Houlton and Senator Berube of Androscoggin.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT to Revise the Maine Certificate of
18 Need Act for Hospitals.
19

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

22 Sec. 1. 22 MRSA §304-A, 2nd ¶, as enacted by PL
23 1981, c. 705, Pt. V, §16, is amended to read:

24 A Except as provided in section 304-C, a certifi-
25 cate of need from the department shall be required
26 for:

27 Sec. 2. 22 MRSA §304-A, sub-§4, as enacted to by
28 PL 1981, c. 705, Pt. V, §16, is amended to read:

29 4. New health services. The offering or devel-
30 opment of any new health service. For purposes of
31 this section, "new health services" shall include on-
32 ly the following:

1 A. The obligation of any capital expenditures by
2 or on behalf of a health care facility which is
3 associated with the addition of a health service
4 which was not offered on a regular basis by or on
5 behalf of the facility within the 12-month period
6 prior to the time the services would be offered;
7 or

8 B. The addition of a health service which is to
9 be offered by or on behalf of a health care fa-
10 cility which was not offered on a regular basis
11 by or on behalf of the facility within the
12 12-month period prior to the time the services
13 would be offered, and which, for the 3rd fiscal
14 year of operation, including a partial first
15 year, following addition of that service, absent
16 any adjustment for inflation, is projected to en-
17 tail annual operating costs of at least the ex-
18 penditure minimum for annual operating costs; ~~or~~

19 ~~C. The addition of a health service which falls~~
20 ~~within a category of health services which are~~
21 ~~subject to review regardless of capital expendi-~~
22 ~~ture or operating cost and which category the de-~~
23 ~~partment has defined through regulations promul-~~
24 ~~gated pursuant to section 312, based on recommen-~~
25 ~~dations from the State Health Coordinating Coun-~~
26 ~~cil;~~

27 Sec. 3. 22 MRSA §304-C, is enacted to read:

28 §304-C. Waiver of certificate of need review for
29 projects for which hospital does not seek
30 positive adjustment to financial require-
31 ments established by Maine Health Care Fi-
32 nance Commission

33 1. Categories of projects eligible for waiver.
34 A hospital may apply for a waiver of the certificate
35 of need review requirements otherwise imposed by this
36 chapter with respect to the following categories of
37 projects:

38 A. New health services involving any capital ex-
39 penditure less than \$300,000; or

1 B. New health services with 3rd year annual op-
2 erating costs of at least the expenditure minimum
3 for annual operating costs but less than
4 \$250,000.

5 2. Conditions of waiver. As a condition of re-
6 ceipt of a waiver of certificate of need review, the
7 hospital shall not be entitled to any positive ad-
8 justments to its financial requirements pursuant to
9 section 396-D, subsection 5, or section 396-K, nor
10 shall the hospital be subject to any negative adjust-
11 ments to its financial requirements pursuant to these
12 sections.

13 3. Waiver process. Any hospital may file a re-
14 quest for waiver with the department and Maine Health
15 Care Finance Commission describing the proposed
16 project and its projected associated capital costs
17 and projected operating costs, as appropriate. With-
18 in 15 days following receipt of the hospital's waiver
19 request and other information, if requested, the de-
20 partment shall issue its waiver determination.

21 The department shall waive certificate of need review
22 in all cases where the request demonstrates that:

23 A. The project is within the categories of sub-
24 section 1; and

25 B. The hospital agrees to be bound by the condi-
26 tions of subsection 2.

27 4. Treatment of project by department and Maine
28 Health Care Finance Commission. The total capital
29 costs and operating costs associated with the project
30 shall not be debited to the Certificate of Need De-
31 velopment Account pursuant to section 396-K. The in-
32 come from operations of the projects shall not be
33 considered as available resources to be applied to
34 the hospital's financial requirements pursuant to
35 section 396-E so long as that income for each payment
36 year, when combined with the hospital's other gross
37 patient service revenues, does not exceed the limits
38 established under section 396-I, subsection 3, para-
39 graph C.

40 Sec. 4. 22 MRSA §309, sub-§6, as enacted by PL
41 1983, c. 579, §9, is amended to read:

1 6. Hospital projects. Notwithstanding subsec-
2 tions 1, 4 and 5, the department may not issue a cer-
3 tificate of need for a project which is subject to
4 the provisions of section 396-D, subsection 5, and
5 section 396-K, if the associated costs exceed the
6 amount which the commission has determined will have
7 been credited to the Certificate of Need Development
8 Account pursuant to section 396-K, after accounting
9 for previously approved projects. A project shall not
10 be denied solely on the basis of exceeding the amount
11 remaining in the Certificate of Need Development Ac-
12 count in a particular payment year, and shall be held
13 for further consideration by the department in the
14 first applicable review cycle beginning after the
15 Certificate of Need Development Account is credited
16 with additional amounts. For purposes of this subsec-
17 tion, a project may be held for a final decision be-
18 yond the time frames set forth in section 307, sub-
19 sections 3 and 4.

20

STATEMENT OF FACT

21 This bill is intended to modify several elements
22 of the Maine Certificate of Need Act to recognize the
23 impact of the Maine Health Care Finance Commission
24 law or the certificate of need process.

25 Sections 1 and 3 allow hospitals the option of
26 obtaining waivers on certificate of need reviews for
27 new services when the capital expenditures are less
28 than \$300,000 or the projected annual operating cost
29 for the 3rd year is greater than \$135,000 but less
30 than \$250,000. As a condition of such a waiver, a
31 hospital is not entitled to a positive adjustment to
32 its financial requirements as determined by the Maine
33 Health Care Finance Commission.

34 Section 2 eliminates certificate of need review
35 authority for so-called "Category C" health services,
36 which do not involve capital expenditures or signifi-
37 cant operating costs.

1 Section 4 allows the Department of Human Services
2 to hold projects, which would otherwise be denied due
3 to insufficient funds in the Certificate of Need De-
4 velopment Account for consideration in the following
5 year.

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