

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 584

H.P. 447

House of Representatives, February 11, 2003

An Act To Strengthen the Maine Certificate of Need Act of 2002

Reference to the Committee on Health and Human Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative TRAHAN of Waldoboro.

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

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Sec. 1. 22 MRSA §328, sub-§2, as enacted by PL 2001, c. 664, §2, is amended to read:

2. Ambulatory surgical facility. "Ambulatory surgical facility" means a facility, not part of a hospital, that provides surgical treatment to patients not requiring hospitalization and that is required to be licensed under section 1812-E or is certified as an ambulatory surgical facility by the federal Medicare program. "Ambulatory surgical facility" does not include the offices of private physicians or dentists, whether in individual or group practice, unless the offices are required to be licensed under section 1812-E or are certified as an ambulatory surgical facility by the federal Medicare program.

Sec. 2. 22 MRSA §328, sub-§8, as enacted by PL 2001, c. 664, §2, is amended to read:

8. Health care facility. "Health care facility" means a hospital, psychiatric hospital, nursing facility, kidney disease treatment center including a freestanding hemodialysis facility, rehabilitation facility, ambulatory surgical facility, independent radiological service center providing imaging services, including, but not limited to, magnetic resonance imaging, computerized tomography, mammography and radiology, independent cardiac catheterization center that provides services, including, but not limited to, cardiac catheterization and angiography or cancer treatment center, endoscopy centers, and medical laboratory licensed in accordance with chapter 411 or licensed by an equivalent out-of-state licensing authority. ~~"Health care facility" does not include the office of a private physician or physicians or a dentist or dentists, whether in individual or group practice.~~

Sec. 3. 22 MRSA §329, sub-§7. ¶B, as enacted by PL 2001, c. 664, §2, is amended to read:

B. If a person adds a health service not subject to review under subsection 4, paragraph A and not subject to review under subsection 4, paragraph B at the time it was established and not reviewed and approved prior to establishment at the request of the applicant, and its actual 3rd fiscal year operating cost exceeds the expenditure minimum for annual operating costs in the 3rd fiscal year of operation following addition of these services; and

Sec. 4. 22 MRSA §329, sub-§8, as enacted by PL 2001, c. 664, §2, is amended to read:

2 **8. Related projects.** Any projects that the department
4 determines are related projects if such projects, considered in
the aggregate, would otherwise require a certificate of need
under this section; and

6 **Sec. 5. 22 MRSA §329, sub-§9** is enacted to read:

8 **9. New ambulatory surgical facilities; expansions,**
10 **renovations, new expenditures and new services.** The
12 **construction, development, establishment or licensure of a new**
14 **ambulatory surgical facility or the expansion, renovation or new**
expenditure or new service by an existing ambulatory surgical
facility.

16 **Sec. 6. 22 MRSA §330, sub-§§6 and 7,** as enacted by PL 2001, c.
18 664, §2, are amended to read:

20 **6. Existing capacity.** The use by an ambulatory surgical
22 facility licensed on January 1, 1998 of capacity in existence on
24 January 1, 1998, except that any expansion, renovation or new
expenditure or service by such facility taking place after
January 1, 1998 that would otherwise be subject to review under
this chapter is not exempt; and

26 **7. Critical access hospitals.** Conversion by a critical
28 access hospital of acute care beds or beds voluntarily reduced
under section 333, subsection 1 to hospital swing beds.

30 **Sec. 7. 22 MRSA §332,** as amended by PL 2001, c. 710, §9, is
32 repealed.

34 **Sec. 8. 22 MRSA §337, sub-§3,** as enacted by PL 2001, c. 664,
§2, is amended to read:

36 **3. Application content.** An application for a certificate of
38 need must describe with specificity how the proposed project
40 meets each of the conditions for granting a certificate of need
42 required by this chapter. A statement or statements that the
44 project will meet the conditions without supporting facts backed
46 by relevant documentation and analysis constitute sufficient
48 cause to deny the application. An application subject to full
review must contain, if available and relevant to the particular
service or technology, information on health status,
characteristics of the payor mix for the population to be served,
public health need for the service or technology, quality
assurance processes and prevention programs.

50 **Sec. 9. 22 MRSA §343,** as enacted by PL 2001, c. 664, §2, is
amended to read:

2 **§343. Public information**

4 The department shall prepare and publish at least annually a
6 report on its activities conducted pursuant to this Act. The
8 annual report must include information on all certificates of
10 need granted and denied. With regard to all certificates granted
12 on a conditional basis, the report must include a summary of
~~information reported pursuant to section 332 and~~ any accompanying
14 statements by the commissioner or department staff submitted
16 regarding the reports.

18 **Sec. 10. 22 MRSA §346, sub-§3**, as enacted by PL 2001, c. 664,
20 §2, is amended to read:

22 **3. Periodic review.** After the issuance of a certificate of
24 need, the department shall periodically review the progress of
26 the holder of the certificate in meeting the timetable for making
28 the service or equipment available or for completing the project
30 specified in the approved application. A certificate of need
32 expires if the project for which the certificate has been issued
34 is not commenced within 12 months following the issuance of the
36 certificate. The department may grant an extension of a
38 certificate for an additional specified time not to exceed 12
40 months if good cause is shown why the project has not commenced.
42 The department may require evidence of the continuing feasibility
44 and availability of financing for a project as a condition for
46 extending the life of the certificate. In addition, if on the
48 basis of its periodic review of progress under the certificate
the department determines that the holder of a certificate is not
otherwise meeting the timetable and is not making a good faith
effort to meet it, the department may, after a hearing, withdraw
the certificate of need. The applicant shall issue to the
department periodic reports as designated in the certificate of
need approval notification on the impact of the service on the
health status, quality of care and, health outcomes of the
population served and the characteristics of the payor mix for
the population served. These reports may not be in less than
12-month intervals following the start of service approved in the
certificate of need. The department shall adopt rules for the
withdrawal of certificates of need.

44 **SUMMARY**

46 This bill proposes to increase the applicability of the
48 certificate of need law to health care facilities, regardless of
ownership. It repeals provisions for subsequent review following
approval of a certificate of need. The bill expands the scope of

2 the periodic reports to the Department of Human Services by an
applicant who has been granted a certificate of need. It exempts
4 from the certificate of need process the conversion by a critical
access hospital of banked hospital beds to swing beds.