

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

HOUSE BILL NO. 1589

BY: ROSS

AS INTRODUCED

AN ACT RELATING TO PUBLIC HEALTH AND SAFETY; AMENDING

SECTIONS 23 AND 24, CHAPTER 227, O.S.L. 1989 (63
O.S. SUPP. 1990, SECTIONS 1-880.6 AND 1-880.7),
WHICH RELATE TO CERTIFICATES OF NEED; PROHIBITING
STATE DEPARTMENT OF HEALTH FROM ISSUING CERTIFICATE
OF NEED UNDER PSYCHIATRIC AND CHEMICAL DEPENDENCY
FACILITY CERTIFICATE OF NEED ACT FOR MINIMUM OF ONE
YEAR; LOWERING NUMBER OF ADMINISTRATIVE INCREASE IN
BEDS; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 24, Chapter 227, O.S.L.
1989 (63 O.S. Supp. 1990, Section 1-880.7), is amended to read as
follows:

Section 1-880.7 A. Except as provided in subsection B of this
section or Section ~~27~~ 1-880.10 of this ~~act~~ title, no certificate of
need shall be issued by the State Department of Health unless, after
investigation, the Department makes the following findings:

1. The action proposed in the application for such certificate
of need is necessary and desirable in order to provide the services
required in the locality to be served;

2. The proposed action can be economically accomplished and maintained; and

3. The proposed action will contribute to the orderly development of services in the locality.

B. 1. An application for a certificate of need shall not be required for a capital expenditure to eliminate or prevent imminent safety hazards as defined by federal, state or local fire, building or life safety codes or regulations, or to comply with state licensure standards, or to comply with accreditation standards, compliance with which is required to receive reimbursements under Title XVIII of the Social Security Act or payments under a state plan for medical assistance approved under Title XIX of such act.

2. Approval under this subsection shall cover only the capital expenditure to eliminate or prevent the hazards or to comply with standards described herein.

C. Any application seeking a certificate of need for the construction of a psychiatric or chemical dependency facility in replacement of an existing facility shall be reviewed by the Department and shall be granted a certificate of need if the application meets the following criteria:

1. The replacement facility involves no increase in licensed beds; and

2. A plan for the use of the facility to be replaced is provided which assures that its use will be discontinued upon licensure of the replacement facility.

D. When the Department completes its investigation and makes a determination to issue or deny a certificate of need, it shall provide written findings to the applicant, other reviewers and to other persons upon their request. The certificate of need shall establish the maximum capital expenditure for the project. The Department shall adopt rules and regulations concerning the time in which a decision must be made by the Department on an application.

E. Any person may request a reconsideration of a Department determination for good cause shown, the grounds for which shall be established by the Department by rule. A request for reconsideration shall be filed within thirty (30) days of the Department determination. The hearing thereupon shall be conducted within thirty (30) days following the receipt of request. Written findings shall be issued within forty-five (45) days of such hearing.

F. Beginning July 1, 1991, the State Department of Health shall not issue a certificate of need pursuant to this section for a minimum period of one (1) year.

SECTION 2. AMENDATORY Section 23, Chapter 227, O.S.L. 1989, as amended by Section 2, Chapter 345, O.S.L. 1989 (63 O.S. Supp. 1990, Section 1-880.6), is amended to read as follows:

Section 1-880.6 A. Every entity desiring to establish a new psychiatric or chemical dependency service or to acquire, lease or expand an existing service whether through construction or conversion of facilities, shall make application to the State Department of Health for a certificate of need in such form and accompanied by such information, including a complete list of stockholders, partners, and owners, and any other information, as the Board shall prescribe.

B. The provisions of the Psychiatric and Chemical Dependency Facility Certificate of Need Act shall not apply to:

1. Any hospital as defined in Section 1-710 of Title 63 of the Oklahoma Statutes, of one hundred twenty (120) beds or less, licensed by the State Department of Health on or before April 1, 1989; provided, however, a hospital having one hundred twenty (120) beds or less, may, upon request, if no other applications are pending or are filed within sixty (60) days from and after the date of application made under this subsection for a certificate of need within the same regulatory service area, be administratively granted

an increase in beds not to exceed ~~twenty-four (24)~~ ten (10) beds.

The administrative procedure provided by this paragraph shall be in lieu of the certificate of need process whether the increase is by acquisition, conversion, construction, expansion or lease; or

2. Except with regard to a Medicare or Medicaid contract pursuant to the federal Social Security Act, any hospital, facility or hospital unit covered by a contract:

a. with one of the following governmental entities:

(1) this state,

(2) the federal government, or

(3) a Native American nation duly recognized by the federal government; and

b. which specifically identifies the beds and their uses.

C. The Commissioner of Health is authorized to grant a certificate of need if the entity applying for the certificate has filed a notice on a form prescribed by the State Department of Health which shall include, but not be limited to:

1. The name and location of the entity;

2. The name and address of each person having an ownership interest in the entity;

3. The nature of the acquisition, expansion, addition or conversion, whether by sale, lease or other arrangement;

4. The parties to the sale, lease or other arrangement;

5. The size of the acquisition, expansion, addition or conversion;

6. The approximate cost of the acquisition, expansion, addition or conversion; and

7. The projected date of completion.

D. The Commissioner of Health shall be notified, on a form prescribed by the State Department of Health, of the following:

1. Any decrease in the number of beds of a hospital, facility or hospital unit; and

2. Any change in the designation for a continuum of care in psychiatric or chemical dependency treatment.

E. A hospital, facility or hospital unit shall not be required to obtain a certificate of need for the changes specified in subsection D of this section; provided, there is no increase in the number of beds.

F. 1. Psychiatric and chemical dependency service shall include any capital investment or lease of Five Hundred Thousand Dollars (\$500,000.00) or more, including predevelopment activities such as arrangements and commitments for financing, architectural designs, plans, working drawings, specifications and site acquisition; provided, that this dollar limit shall not apply to a change in bed capacity.

2. Psychiatric and chemical dependency service shall include acquisition of a facility by purchase, lease, donation or through transfer of stock or corporate merger. If the Department finds that a proposed acquisition is consistent with the criteria and standards for review of such projects, then the Department shall issue a certificate of need. If the Department finds that the proposed acquisition is not consistent with the criteria, the project will be referred to the Commissioner of Health for final determination. The Department's determination to approve the proposed acquisition or to refer it to the Commissioner shall be made no later than fifteen (15) days following the day the application is determined to be complete and review ready, or the proposed acquisition shall be automatically approved. Proposed acquisitions shall be reviewed against standards adopted by the Department which relate only to the acquirer's capability to operate a facility.

G. Promptly upon receipt of any such application, the Department shall examine and transmit the application to reviewers

it may select to determine whether the application is complete. Once the Department has determined that the application is complete, it shall notify affected parties and other reviewing bodies and cause a thorough investigation to be made of the need for and appropriateness of such expanded psychiatric or chemical dependency service. The investigation made pursuant to an application for a certificate of need shall include the following:

1. The adequacy of psychiatric and chemical dependency services in relation to an optimal target ratio of psychiatric or chemical dependency beds to the population;
2. The availability of services which may serve as alternatives or substitutes;
3. The adequacy of financial resources for the new or expanded services and for the continued operation thereof;
4. The availability of sufficient manpower to properly staff and operate the proposed new or expanded service; and
5. Any other matter which the Department deems appropriate.

H. Each application for a certificate of need applied for pursuant to the provisions of this section except for those applications filed by state agencies shall be accompanied by an application fee in an amount established by the Department.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-1-5873

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