

Subd. 3. The commissioner may charge a fee for the issuance of a license or the renewal of a license in accordance with this act. The fees so collected shall be sufficient to offset costs of administering this program. In no event shall the fee exceed \$150. All fees collected shall be deposited in the general fund in the state treasury.

Sec. 4. [245.81] **COUNTY WELFARE PLACEMENT.** Persons for whom facilities and services are licensed by this act and who are under the care and supervision of any county welfare department and who need placement in residential, after care or day care facilities shall be placed only in facilities licensed in accordance with this act.

Sec. 5. [245.82] **STAFF; DELEGATION OF DUTIES.** The commissioner may delegate such of the powers and duties granted to him by this act to county welfare boards or to a body established pursuant to Minnesota Statutes, Sections 245.61 to 245.69 if and when he deems such delegation appropriate.

Approved June 1, 1971.

CHAPTER 628—S.F.No.1523

[Coded]

An act relating to health; requiring a certificate of need prior to the construction or modification of certain health care facilities; and providing for the issuance of certificates of need.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. [145.71] **HEALTH CARE FACILITIES; CERTIFICATE OF NEED ACT; PURPOSE; CITATION.** Subdivision 1. **FINDINGS: STATEMENT OF PURPOSE.** The legislature finds that the unnecessary construction or modification of health care facilities increases the cost of care and threatens the financial ability of the public to obtain necessary medical services. The purposes of this act are to promote comprehensive health planning; to assist in providing the highest quality of health care at the lowest possible cost; to avoid unnecessary duplication by ensuring that only those health care facilities which are needed will be built; and to provide an orderly method of resolving questions concerning the necessity of construction or modification of health care facilities.

It is the policy of this act that decisions regarding the construction or modification of health care facilities should be based on the

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maximum possible participation on the local level by consumers of health care and elected officials, as well as the providers directly concerned.

Subd. 2. **CITATION.** This act may be cited as the Minnesota certificate of need act.

Sec. 2. **[145.72] DEFINITIONS.** Subdivision 1. As used in this act, unless the context otherwise requires the terms defined in this section have the meaning ascribed to them.

Subd. 2. "Health care facility" means any hospital licensed as such under Minnesota Statutes 1969, Sections 144.50 to 144.56; any nursing home licensed as such under Minnesota Statutes 1969, Sections 144.50 to 144.56 or Minnesota Statutes 1969, Section 144.583; or any boarding care home licensed as such under Minnesota Statutes 1969, Sections 144.50 to 144.56.

Subd. 3. "Construction or modification" means the erection, building, alteration, reconstruction, modernization, improvement, extension, or purchase or acquisition of diagnostic or therapeutic equipment, by a health care facility, which

(1) requires a total capital expenditure in excess of \$50,000; and

(2) will either (a) expand or extend the scope or type of service rendered, or (b) increase the bed complement of the facility.

Subd. 4. "Certificate of need" means a certificate issued in accordance with this act.

Subd. 5. "Area wide comprehensive health planning agency" means an agency established to meet the requirements of the Partnership for Health Act, P.L. 89-749, as amended, and designated as such by the Minnesota State Planning Agency; provided that in the metropolitan area the area wide comprehensive health planning agency shall be the metropolitan council, if it has appointed a health board to advise it meeting the requirements of section 4.

Subd. 6. "Consumer" means any person other than a person (a) whose occupation involves, or before his retirement involved, the administration of health activities or the providing of health services, (b) who is, or ever was, employed by a health care facility, as a licensed professional, or (c) who has, or ever had, a material financial interest in the rendering of health service.

Sec. 3. **[145.73] COMMENCEMENT OF CONSTRUCTION.** No construction or modification of a health care facility, whether public, non-profit, or proprietary, shall be commenced unless a certificate of need has been issued therefor in accordance with this act.

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Sec. 4. [145.74] HEALTH PLANNING AGENCIES; MEMBERSHIP REGULATIONS. The State Planning Agency shall, subject to Minnesota Statutes, Chapter 15, after consulting with the State Board of Health promulgate regulations concerning the membership of area wide comprehensive health planning agencies. The regulations shall include, but not be limited to, the following factors. The regulations shall:

(1) comply with the provisions of the Partnership for Health Act, P.L. 89-749, as amended;

(2) provide that a majority of the membership be composed of consumers;

(3) provide for representation of providers of each of the following: hospital, nursing home and boarding care;

(4) provide for representation of licensed medical doctors and other health professionals;

(5) provide for a fixed term of membership; and

(6) provide that members of an area wide comprehensive health planning agency shall not select their successors.

No existing area wide comprehensive health planning agency shall exercise the functions provided in this act until it is in compliance with regulations issued pursuant to this section.

If there is no area wide comprehensive health planning agency in a designated area of the state in compliance with this act, the Minnesota State Planning Agency shall perform the functions and duties of an area wide comprehensive health planning agency for that area.

Sec. 5. [145.75] HEALTH PLANNING AGENCIES; REGULATION OF DUTIES. The State Planning Agency, in accordance with Minnesota Statutes, Chapter 15, shall, after consulting with the area wide comprehensive health planning agencies and the State Board of Health, make regulations to guide the area wide comprehensive health planning agencies in the performance of their duties. The regulations shall provide for the consideration of at least the following factors:

(a) the need for health care facilities and services in the area and the requirements of the population of the area;

(b) maximum and minimum hospital, nursing home, and boarding care home bed ratios per 1,000 inhabitants of the area, subject to differences in requirements of the various designated areas;

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(c) the possible economies and improvement in service that may be derived from operation of joint, cooperative, or shared health care resources;

(d) the relationship of proposed construction or modification to overall plans for the development of the area;

(e) the availability and adequacy of the area's existing hospitals, nursing homes, and boarding care homes currently conforming to state and federal standards; and

(f) the availability and adequacy of other health services in the area such as out-patient, ambulatory or home care service which may serve as alternates or substitutes for the whole or any part of the service to be provided by any proposed health care facility construction or modification.

The fact that a health care facility serves more than a local area constituency or population or is engaged in educational or research activities shall be taken into consideration in the decision making process with respect to any proposal.

Sec. 6. [145.76] PROCEDURE PRIOR TO PROPOSAL. No health care facility, or person, group, corporation or association intending to embark upon a program of construction or modification of a health care facility, shall engage architectural, professional consultation, or fund raising services with respect to the project until it has notified the area wide comprehensive health planning agency of its intention to engage such services. The notice shall state simply the nature of the architectural, professional consultation, or fund raising services to be engaged and the nature of the construction or modification contemplated. Upon receipt of notice under this section, the area wide comprehensive health planning agency shall promptly notify the State Board of Health and the State Planning Agency. No area wide comprehensive health planning agency shall be required to accept or act upon a proposal if the notice required by this section has not been given. Nothing in this section shall be construed to limit in any way the right to engage architectural, professional consultation, or fund raising services.

Sec. 7. [145.77] CONTENT OF PROPOSALS. Each proposal shall contain information concerning, but not limited to, the following:

(a) the geographic area likely to be served;

(b) the population likely to be served;

(c) the reasonably anticipated need for the facility or service to be provided by the proposal;

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(d) a description of the construction or modification in reasonable detail, including

(1) the capital expenditures contemplated; and

(2) the estimated annual operating cost, including the anticipated salary cost and numbers of new staff necessitated by the proposal;

(e) the anticipated effect of the proposal on the per day cost charged by an existing health care facility;

(f) so far as is known, existing institutions within the area to be served that offer the same or similar service; the extent of utilization of existing facilities or services; and the anticipated effect that the proposal will have on existing facilities and services;

(g) the anticipated benefit to the area that will result from the proposal;

(h) so far as is known, the relationship of the proposed construction to any priorities which have been established for the area to be served; and

(i) the availability and manner of financing of the proposed construction or modification, and the estimated date of commencement and completion of the project.

Sec. 8. [145.78] **PROPOSAL PROCEDURE.** Proposals for health care facility construction or modification shall be made to the area wide comprehensive health planning agency serving the area in which the proposed construction or modification is to take place. Prior to acting on the proposal, the area wide comprehensive health planning agency shall send a copy to the State Board of Health and to the State Planning Agency. In reviewing each proposal, the area wide comprehensive health planning agency shall:

(1) hold a public hearing;

(2) provide notice of the public hearing by publication in a legal newspaper of general circulation in the area for two successive weeks at least ten days before the date of such hearing;

(3) allow any interested person the opportunity to be heard, to be represented by counsel, to present oral and written evidence, and to confront and cross-examine opposing witnesses at the public hearing;

(4) provide a transcript of the hearing at the expense of any individual requesting it, if the transcript is requested at least three days prior to the hearing;

(5) make findings of fact and recommendations concerning the proposal which findings and recommendations shall be available to any individual requesting them; and

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(6) follow any further procedure not inconsistent with this act or Minnesota Statutes 1969, Chapter 15, which it deems appropriate.

Within 90 days after receiving the proposal, the area wide comprehensive health planning agency shall make its recommendation to the State Board of Health. The area wide comprehensive health planning agency shall either recommend that the State Board of Health issue, or refuse to issue, a certificate of need. The reasons for the recommendation shall be set forth in detail.

Sec. 9. [145.79] DETERMINATION. Within 60 days after receiving the recommendation of the area wide comprehensive health planning agency, the State Board of Health shall review the recommendations and make one of the following decisions:

- (a) issue a certificate of need;
- (b) reject the application for a certificate of need; or
- (c) refer the application back to the area wide comprehensive health planning agency with comments and instructions for further consideration and recommendations.

If the decision of the State Board of Health is contrary to the recommendation of the area wide comprehensive health planning agency, the State Board of Health shall set forth in detail the reasons for reversing the recommendation.

Sec. 10. [145.80] EXPIRATION OF CERTIFICATE. A certificate of need shall expire if the construction or modification is not commenced within one year following the issuance of the certificate.

Sec. 11. [145.81] APPEALS. Any person aggrieved by an order of the State Board of Health denying a certificate of need may, within 30 days of such action, appeal in accordance with this section. Notice of appeal and the reasons therefor shall be filed with the governor, who shall appoint a board to hear the appeal. The board shall be composed of three consumers of health services, at least two of whom shall reside outside the area from which the appeal is made, who shall serve without compensation. The board shall proceed in accordance with the provisions of Minnesota Statutes 1969, Chapter 15.

Sec. 12. [145.82] EVASIONS. No health care facility shall separate portions of a single project into components in order to evade the \$50,000 cost limitation of section 2, subdivision 3.

Sec. 13. [145.83] ENFORCEMENT. The district court in the county where an alleged violation occurs shall have jurisdiction to enjoin violations of this act. At the request of the State Board of Health, the attorney general may bring an action to enjoin an alleged

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violation. At the request of an area wide comprehensive health planning agency, the county attorney of the county where an alleged violation occurs may bring an action to enjoin the alleged violation. The State Board of Health shall not issue a license for any portion of a health care facility in violation of section 3 until a certificate of need has been issued. No health care facility in violation of section 3 shall be eligible to apply for or receive public funds under Minnesota Statutes 1969, Chapters 245 through 256B, or from any other source, until a certificate of need has been issued.

Sec. 14. EFFECTIVE DATE. This act shall apply to architectural, professional consultation, or fund raising services engaged after September 1, 1971, to health care facility construction or modification commenced after September 1, 1971 and to proposals for health care facilities approved for federal or state financial assistance after July 1, 1971.

Approved June 1, 1971.

CHAPTER 629—S.F.No.2035

An act relating to drainage systems; the assessment of benefits for certain improvements thereof; amending Minnesota Statutes 1969, Section 106.151.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1969, Section 106.151, is amended to read:

106.151 DRAINAGE SYSTEMS; ASSESSMENT OF BENEFITS; VIEWERS, DUTIES. The viewers, with or without the engineer, shall determine the benefits or damages to all lands and properties affected by the proposed drainage system and shall make their report thereon.

Such report shall show in tabular form the description of each lot and forty-acre tract, or fraction thereof, under separate ownership, benefited or damaged, the names of the owners as the same appear on the current tax duplicate of the county, the number of acres in each tract benefited or damaged, the number of acres added to any tract by the drainage of meandered lakes and the value thereof, the damage, if any, to riparian rights, and the amount that each tract will be benefited or damaged.

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