

House Bill 3621

Sponsored by Representative ELMER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Exempts rehabilitation facilities from requirement to obtain certificate of need.

A BILL FOR AN ACT

1 Relating to certificates of need; amending ORS 442.315.

2 **Be It Enacted by the People of the State of Oregon:**

3 **SECTION 1.** ORS 442.315 is amended to read:

4 442.315. (1) Any new hospital or new skilled nursing or intermediate care service or facility [*not*
5 *excluded pursuant to ORS 441.065*] shall obtain a certificate of need from the Oregon Health Au-
6 thority prior to an offering or development **unless the facility is:**

7 (a) **Excluded pursuant to ORS 441.065; or**

8 (b) **An institution that provides rehabilitation services for the rehabilitation of individuals**
9 **who are injured or sick or who have disabilities, as described in ORS 442.015 (25).**

10 (2) The authority shall adopt rules specifying criteria and procedures for making decisions as
11 to the need for the new services or facilities.

12 (3)(a) An applicant for a certificate of need shall apply to the authority on forms provided for
13 this purpose by authority rule.

14 (b) An applicant shall pay a fee prescribed as provided in this section. Subject to the approval
15 of the Oregon Department of Administrative Services, the authority shall prescribe application fees,
16 based on the complexity and scope of the proposed project.

17 (4)(a) The authority shall issue a draft recommendation in response to an application for a cer-
18 tificate of need.

19 (b) The authority may establish an expedited review process for an application for a certificate
20 of need to rebuild a long term care facility, relocate buildings that are part of a long term care fa-
21 cility or relocate long term care facility bed capacity from one long term care facility to another.
22 The authority shall issue a draft recommendation not later than 120 days after the date a complete
23 application subject to expedited review is received by the authority.

24 (5)(a) An applicant or any affected person who is dissatisfied with the draft recommendation of
25 the authority is entitled to an informal hearing before the authority in the course of review and
26 before a proposed decision is rendered. Following an informal hearing, or if no applicant or affected
27 person requests an informal hearing within a period of time prescribed by the authority by rule, the
28 authority shall issue a proposed decision.

29 (b) An applicant or affected person is entitled to a contested case hearing in accordance with
30 ORS chapter 183 to challenge the proposed decision of the authority. Following a contested case
31 hearing, or if no applicant or affected person requests a contested case hearing within a period of
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NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 time prescribed by the authority by rule, the authority shall issue a final order granting, with or
 2 without limitations, or denying the certificate of need.

3 (6) Once a certificate of need has been granted, it may not be revoked or rescinded unless it
 4 was acquired by fraud or deceit. However, if the authority finds that a person is offering or devel-
 5 oping a project that is not within the scope of the certificate of need, the authority may limit the
 6 project as specified in the granted certificate of need or reconsider the application. A certificate of
 7 need is not transferable.

8 (7) Nothing in this section applies to any hospital, skilled nursing or intermediate care service
 9 or facility that seeks to replace equipment with equipment of similar basic technological function
 10 or an upgrade that improves the quality or cost-effectiveness of the service provided. Any person
 11 acquiring such replacement or upgrade shall file a letter of intent for the project in accordance with
 12 the rules of the authority if the price of the replacement equipment or upgrade exceeds \$1 million.

13 (8) Except as required in subsection (1) of this section for a new hospital or new skilled nursing
 14 or intermediate care service or facility not operating as a Medicare swing bed program, nothing in
 15 this section requires a rural hospital as defined in ORS 442.470 (6)(a)(A) and (B) to obtain a certif-
 16 icate of need.

17 (9) Nothing in this section applies to basic health services, but basic health services do not in-
 18 clude:

- 19 (a) Magnetic resonance imaging scanners;
- 20 (b) Positron emission tomography scanners;
- 21 (c) Cardiac catheterization equipment;
- 22 (d) Megavoltage radiation therapy equipment;
- 23 (e) Extracorporeal shock wave lithotriptors;
- 24 (f) Neonatal intensive care;
- 25 (g) Burn care;
- 26 (h) Trauma care;
- 27 (i) Inpatient psychiatric services;
- 28 (j) Inpatient chemical dependency services;
- 29 (k) Inpatient rehabilitation services;
- 30 (L) Open heart surgery; or
- 31 (m) Organ transplant services.

32 (10) In addition to any other remedy provided by law, whenever it appears that any person is
 33 engaged in, or is about to engage in, any acts that constitute a violation of this section, or any rule
 34 or order issued by the authority under this section, the authority may institute proceedings in the
 35 circuit courts to enforce obedience to such statute, rule or order by injunction or by other pro-
 36 cesses, mandatory or otherwise.

37 (11) As used in this section, "basic health services" means health services offered in or through
 38 a hospital licensed under ORS chapter 441, except skilled nursing or intermediate care nursing fa-
 39 cilities or services and those services specified in subsection (9) of this section.

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