

House Bill 2022

Sponsored by Representative ELMER (Pre-session filed.)

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act makes an exception to the certificate of need process. (Flesch Readability Score: 64.9).

Excludes facilities providing rehabilitation services to individuals with brain injuries or spinal cord injuries from the requirement to obtain a certificate of need from the Oregon Health Authority.

A BILL FOR AN ACT

1
2 Relating to certificates of need; amending ORS 442.315.

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

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

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

9 (a) **Is excluded pursuant to ORS 441.065; or**

10 (b) **Provides, as its primary focus, rehabilitation services to individuals with brain inju-**
11 **ries or spinal cord injuries.**

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

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

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

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

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

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

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 (b) An applicant or affected person is entitled to a contested case hearing in accordance with
 2 ORS chapter 183 to challenge the proposed decision of the authority. Following a contested case
 3 hearing, or if no applicant or affected person requests a contested case hearing within a period of
 4 time prescribed by the authority by rule, the authority shall issue a final order granting, with or
 5 without limitations, or denying the certificate of need.

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

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

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

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

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

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

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