

LEGISLATIVE BILL 765

Approved by the Governor April 11, 2008

Introduced by Gay, 14; Schimek, 27; Stuthman, 22.

FOR AN ACT relating to health; to amend sections 71-5829.03 and 71-5829.06, Reissue Revised Statutes of Nebraska; to change provisions relating to certificates of need; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 71-5829.03, Reissue Revised Statutes of Nebraska, is amended to read:

71-5829.03 No person, including persons acting for or on behalf of a health care facility, shall engage in any of the following activities without having first applied for and received the necessary certificate of need:

(1) The initial establishment of long-term care beds or rehabilitation beds except as permitted under ~~subdivision (5)~~ subdivisions (6) and (7) of this section;

~~(2) An increase in the long-term care beds or rehabilitation beds of a health care facility by more than ten beds or more than ten percent of the total bed capacity, whichever is less, over a two-year period;~~

(2) An increase in the long-term care beds of a health care facility by more than ten long-term care beds or more than ten percent of the total long-term care bed capacity of such facility, whichever is less, over a two-year period;

(3) An increase in the rehabilitation beds of a health care facility by more than ten rehabilitation beds or more than ten percent of the total rehabilitation bed capacity of such facility, whichever is less, over a two-year period;

~~(3) (4) A relocation of long-term care beds from a health care facility at one physical facility or contiguous site to another noncontiguous site within the same health planning region if the relocation will cause an aggregate increase in long-term care beds between those locations of more than ten beds or more than ten percent of the total bed capacity, whichever is less, over a two-year period;~~

~~(4) (5) Any relocation of long-term care beds from a health care facility located in one health planning region to a health care facility in a different health planning region;~~

~~(5) Any conversion by a hospital of any type of hospital beds to long-term care beds or rehabilitation beds if the total bed capacity of the hospital will have changed by more than ten beds or more than ten percent of the total bed capacity, whichever is less, over a two-year period;~~

~~(6) Any change by a residential care facility to convert residential care beds to long-term care beds; or~~

~~(7) Any change by a domiciliary facility to convert domiciliary beds to long-term care beds.~~

(6) Any initial establishment of long-term care beds through conversion by a hospital of any type of hospital beds to long-term care beds if the total beds converted by the hospital are more than ten beds or more than ten percent of the total bed capacity of such hospital, whichever is less, over a two-year period;

(7) Any initial establishment of rehabilitation beds through conversion by a hospital of any type of hospital beds to rehabilitation beds if the total beds converted by the hospital are more than ten beds or more than ten percent of the total bed capacity of such hospital, whichever is less, over a two-year period; or

(8) Any relocation of rehabilitation beds in Nebraska from one health care facility to another health care facility.

Sec. 2. Section 71-5829.06, Reissue Revised Statutes of Nebraska, is amended to read:

71-5829.06 All rehabilitation beds which require a certificate of need are subject to a moratorium, ~~except under the following condition:~~ unless one of the following exceptions applies:

(1) If the average occupancy for all rehabilitation beds located in Nebraska has exceeded ninety percent occupancy during the most recent three consecutive calendar quarters as reported at the time of the filing of the application, the department may grant an exception to the moratorium and issue a certificate of need. If the department determines the average occupancy for all rehabilitation beds located in Nebraska does not exceed ninety percent occupancy during the most recent three consecutive calendar quarters as reported at the time of the filing of the application, the department shall

deny the application; ~~or-~~

(2) If the average occupancy for all rehabilitation beds within a health planning region exceeds eighty percent occupancy during the most recent three consecutive calendar quarters as reported at the time of the filing of the application and no other comparable services are otherwise available in the health planning region, the department shall grant an exception to the moratorium and issue a certificate of need for up to three rehabilitation beds.

Sec. 3. Original sections 71-5829.03 and 71-5829.06, Reissue Revised Statutes of Nebraska, are repealed.