

ASSEMBLY, No. 4177

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JUNE 1, 2020

Sponsored by:

Assemblyman RALPH R. CAPUTO

District 28 (Essex)

SYNOPSIS

Revises certificate of need program.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning emergency medical services and amending
2 P.L.1971, c.136 and P.L.1992, c.160.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 7 of P.L.1971, c.136 (C.26:2H-7) is amended to read
8 as follows:

9 7. No health care facility shall be constructed or expanded, and
10 no new health care service shall be instituted after the effective date
11 of P.L.1971, c.136 (C.26:2H-1 et seq.) except upon application for
12 and receipt of a certificate of need as provided by P.L.1971, c.136
13 (C.26:2H-1 et seq.). No agency of the State or of any county or
14 municipal government shall approve any grant of funds for, or issue
15 any license to, a health care facility which is constructed or
16 expanded, or which institutes a new health care service, in violation
17 of the provisions of P.L.1971, c.136 (C.26:2H-1 et seq.).

18 Except as provided in section 19 of P.L.1992, c.160 (C.26:2H-
19 7a) and section 16 of P.L.1998, c.43 (C.26:2H-7c), the provisions of
20 this section shall apply to:

21 a. The initiation of any health care service as provided in
22 section 2 of P.L.1971, c.136 (C.26:2H-2);

23 b. The initiation by any person of a health care service which is
24 the subject of a health planning regulation adopted by the
25 Department of Health;

26 c. The purchase by any person of major moveable equipment
27 whose total cost is over \$2 million;

28 d. The expenditure by a licensed health care facility of over \$2
29 million for construction of a new health care facility; **[and]**

30 e. The construction of a facility by any person, whose total
31 project cost exceeds \$2 million, if the facility-type is the subject of
32 a health planning regulation adopted by the Department of Health;
33 and

34 f. The operation as an emergency medical services provider.
35 The issuance of a certificate of need under this subsection shall be
36 required to lawfully operate as an emergency medical services
37 provider in this State. The issuance of a certificate of need under
38 this subsection shall be valid for a period of three calendar years
39 following the date of issuance. Thereafter, an emergency medical
40 services provider shall be required to reapply for a certificate of
41 need with the Department of Health on a triennial basis. An
42 emergency medical services provider licensed by the Department of
43 Health before the effective date of P.L. c. (C.) (pending
44 before the Legislature as this bill) shall apply for a certificate of
45 need to lawfully operate as an emergency services provider within
46 three calendar years following the effective date of P.L. c.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (C.) (pending before the Legislature as this bill). An
2 emergency medical services provider applicant under this
3 subsection shall, in addition to any other application requirements
4 provided by law, provide the following to the Department of
5 Health:

6 (1) a list of services to be provided to patients and the expected
7 cost to patients for each of those services; and

8 (2) a plan to provide patients an itemized receipt listing the cost
9 of each service provided to the patient and detailed information that
10 is easily understandable to the general public on how a patient may
11 formally dispute the costs charged to the patient by the emergency
12 medical services provider.

13 The commissioner may periodically increase the monetary
14 thresholds established in this section, by regulation, to reflect
15 inflationary increases in the costs of health care equipment or
16 construction.

17 **【For the purposes of】** As used in this section【,】:

18 "Emergency medical services provider" means any association,
19 organization, company, department, agency, service, program, unit,
20 or other entity that provides pre-hospital emergency medical care to
21 patients in this State, including, but not limited to, a basic life
22 support ambulance service, a mobile intensive care unit, an air
23 medical service, or a non-volunteer first aid, rescue, and ambulance
24 squad.

25 **【"health】** "Health care service" 【shall include】 includes any
26 service which is the subject of a health planning regulation adopted
27 by the Department of Health **【, and】** .

28 **【"person"】** "Person" 【shall include】 includes a corporation,
29 company, association, society, firm, partnership, and joint stock
30 company, as well as an individual.

31 A physician who initiates a health care service which is the
32 subject of a health planning regulation or purchases major moveable
33 equipment pursuant to subsection b. or c. of this section, may apply
34 to the commissioner for a waiver of the certificate of need
35 requirement if: the equipment or health care service is such an
36 essential, fundamental, and integral component of the physician's
37 practice specialty, that the physician would be unable to practice his
38 specialty according to the acceptable medical standards of that
39 specialty without the health care service or equipment; the
40 physician bills at least 75**【%】** percent of 【his】 the total amount of
41 charges in the practice specialty which uses the health care service
42 or equipment; and the health care service or equipment is not
43 otherwise available and accessible to patients, pursuant to standards
44 established by the commissioner**【,】** by regulation. The
45 commissioner shall make a determination about whether to grant or
46 deny the waiver**【,】** within 120 days from the date the request for the
47 waiver is received by the commissioner and shall so notify the

1 physician who requested the waiver. If the request is denied, the
2 commissioner shall include in that notification the reason for the
3 denial. If the request is denied, the initiation of a health care
4 service or the purchase of major moveable equipment shall be
5 subject to the certificate of need requirements pursuant to this
6 section.

7 A health maintenance organization which furnishes at least basic
8 comprehensive care health services on a prepaid basis to enrollees
9 either through providers employed by the health maintenance
10 organization or through a medical group or groups which contract
11 directly with the health maintenance organization, which initiates a
12 health care service, or constructs a health care facility pursuant to
13 subsection a., b., d., or e. of this section, may apply to the
14 commissioner for a waiver of the certificate of need requirement if:
15 the initiation of the health care service or the construction is in the
16 best interests of State health planning【;】 and the health
17 maintenance organization is in compliance with the provisions of
18 P.L.1973, c.337 (C.26:2J-1 et seq.) and complies with the
19 provisions of subsection d. of section 3 of P.L.1973, c.337 (C.26:2J-
20 3) regarding notification to the commissioner. The commissioner
21 shall make a determination about whether to grant or deny the
22 waiver within 45 days from the date the request for the waiver is
23 received by the commissioner and shall so notify the health
24 maintenance organization. If the request for a waiver is denied on
25 the basis that the request would not be in the best interests of State
26 health planning, the commissioner shall state in that notification the
27 reason why the request would not be in the best interests of State
28 health planning. If the request for a waiver is denied, the health
29 maintenance organization's initiation of a health care service or
30 construction project shall be subject to the certificate of need
31 requirements pursuant to this section.

32 The requirement to obtain a certificate of need for major
33 moveable equipment pursuant to subsection c. of this section shall
34 not apply if a contract to purchase that equipment was entered into
35 prior to July 1, 1991.

36 (cf: P.L.2012, c.17, s.169)

37

38 2. Section 19 of P.L.1992, c.160 (C.26:2H-7a) is amended to
39 read as follows:

40 19. Notwithstanding the provisions of section 7 of P.L.1971,
41 c.136 (C.26:2H-7) to the contrary, the following are exempt from
42 the certificate of need requirement:

43 Community-based primary care centers;

44 Outpatient drug and alcohol services;

45 Hospital-based medical detoxification for drugs and alcohol;

46 【Ambulance and invalid】 Invalid coach services;

47 Mental health services which are non-bed related outpatient
48 services;

- 1 Residential health care facility services;
- 2 Dementia care homes;
- 3 Capital improvements and renovations to health care facilities;
- 4 Additions of medical/surgical, adult intensive care and adult
- 5 critical care beds in hospitals;
- 6 Inpatient special psychiatric beds used solely for services for
- 7 patients with co-occurring mental health and substance use
- 8 disorders;
- 9 Replacement of existing major moveable equipment;
- 10 Inpatient operating rooms;
- 11 Alternate family care programs;
- 12 Hospital-based subacute care;
- 13 Ambulatory care facilities;
- 14 Comprehensive outpatient rehabilitation services;
- 15 Special child health clinics;
- 16 New technology in accordance with the provisions of section 18
- 17 of P.L.1998, c.43 (C.26:2H-7d);
- 18 Transfer of ownership interest except in the case of an acute care
- 19 hospital;
- 20 Change of site for approved certificate of need within the same
- 21 county;
- 22 Additions to vehicles or hours of operation of a mobile intensive
- 23 care unit;
- 24 Relocation or replacement of a health care facility within the
- 25 same county, except for an acute care hospital;
- 26 Continuing care retirement communities authorized pursuant to
- 27 P.L.1986, c.103 (C.52:27D-330 et seq.);
- 28 Magnetic resonance imaging;
- 29 Adult day health care facilities;
- 30 Pediatric day health care facilities;
- 31 Chronic or acute renal dialysis facilities; and
- 32 Transfer of ownership of a hospital to an authority in accordance
- 33 with P.L.2006, c.46 (C.30:9-23.15 et al.).
- 34 (cf: P.L.2017, c.94, s.1)

35
36 3. The Commissioner of Health shall adopt rules and
37 regulations, in accordance with the “Administrative Procedure Act,”
38 P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to effectuate
39 the provisions of this act.

40
41 4. This act shall take effect immediately.

42
43 STATEMENT

44
45 This bill revises the certificate of need program and requests an
46 increase in the Medicaid reimbursement rate for emergency medical
47 services.

1 Under the bill, an emergency medical services provider is to
2 obtain a certificate of need from the Department of Health (DOH)
3 in order to be licensed to operate in this State. The issuance of a
4 certificate of need is to be valid for a period of three calendar years
5 following the date of issuance. Thereafter, an emergency medical
6 services provider will be required to reapply for a certificate of need
7 with the DOH on a triennial basis. An emergency medical services
8 provider licensed by the DOH before the bill's effective date is to
9 apply for a certificate of need to continue operations as a emergency
10 services provider within three calendar years following the bill's
11 effective date.

12 The bill provides that an emergency medical services provider
13 applicant, in addition to any other application requirements
14 provided by law, is to provide the DOH with: 1) a list of services to
15 be provided to patients and the expected cost to patients for each of
16 those services; and 2) a plan to provide patients an itemized receipt
17 listing the cost of each service provided to the patient and detailed
18 information that is easily understandable to the general public on
19 how a patient may formally dispute the costs charged to the patient
20 by the emergency medical services provider.

21 Under the bill, "emergency medical services provider" means
22 any association, organization, company, department, agency,
23 service, program, unit, or other entity that provides pre-hospital
24 emergency medical care to patients in this State, including, but not
25 limited to, a basic life support ambulance service, a mobile
26 intensive care unit, an air medical service, or a non-volunteer first
27 aid, rescue, and ambulance squad.