CERTIFICATE OF NEED PROGRAM

CHAPTER 123
CERTIFICATE OF NEED PROGRAM

Chapter rescission date pursuant to Iowa Code section 17A.7: 7/1/31

441—123.1(135) Definition. For purposes of this chapter, the following definition applies:

"Long-term (acute) care hospital" means a hospital that has been approved to participate in the Title XVIII (Medicare) program as a long-term care hospital-prospective payment system (LTCH-PPS) hospital in accordance with 42 CFR Part 412 as amended to August 1, 2025.

[**ARC 0320D**, IAB 5/27/26, effective 7/1/26; **ARC 0769D**, IAB 11/25/26, effective 1/1/27]

441—123.2(135) Determination of reviewability. A sponsor of a proposed project may electronically submit a written request for a determination of reviewability as to whether the project requires a certificate of need.

123.2(1) If it is determined that a certificate of need is required, the department will notify the sponsor of the determination of reviewability and the sponsor will be allowed to submit an electronic application immediately.

123.2(2) If it is determined that a certificate of need is not required, the department will notify the sponsor of the determination of nonreviewability.

[**ARC 0320D**, IAB 5/27/26, effective 7/1/26; **ARC 0769D**, IAB 11/25/26, effective 1/1/27]

441—123.3(135) Submission of application.

123.3(1) Application form.

a. A sponsor of a proposed project for a new or changed institutional health service will submit to the department an electronic application for certificate of need using the appropriate application form found on the certificate of need website. All information requested in the application form is required in the absence of a waiver by the department.

b. An original application and all attachments shall be submitted electronically.

c. The department will establish and maintain electronic files on each application.

123.3(2) The application fee specified in Iowa Code section 135.62(1) is based on the total cost of the project, including site costs, land improvements, facility costs, movable equipment, and financing costs.

a. The fee for leased or donated new institutional health services is calculated in the same manner as if the new institutional health services were purchased.

(1) The leased equipment fee is based on total value of the lease, plus sales tax, delivery and installation.

(2) The lease of space includes the cost of a one-year lease payment for the space, in addition to other costs associated with the project.

(3) Financing costs are not applicable on leases or cash purchases.

b. The application fee will be refunded by the department for any application that is voluntarily withdrawn from the review process in the amounts specified in Iowa Code section 135.62(1).

c. For purposes of this subrule and Iowa Code section 135.62(1), "submission" means the day the application is received by the department.

123.3(3) The notice of an accepted application issued pursuant to Iowa Code section 135.65(2) will inform the applicant and affected persons of the deadlines for the electronic submission to the department of written public comments or other materials.

[**ARC 0320D**, IAB 5/27/26, effective 7/1/26; **ARC 0769D**, IAB 11/25/26, effective 1/1/27]

441—123.4(135) Organizational procedures.

123.4(1) The department will evaluate the application against the criteria specified in Iowa Code section 135.63.

123.4(2) Public comments on an application.

a. The department will receive written public comments on an application during a time frame prescribed by the department for each application.

b. Public hearings conducted pursuant to Iowa Code section 135.65(3)*"b"* are not contested cases.

[**ARC 0320D**, IAB 5/27/26, effective 7/1/26; **ARC 0769D**, IAB 11/25/26, effective 1/1/27]

441—123.5(135) Summary review. Summary review may be utilized at the discretion of the department pursuant to Iowa Code section 135.66. An applicant requesting a summary review will abide by the following procedures:

123.5(1) An applicant will electronically submit a written request for summary review and a copy of the application and all attachments.

123.5(2) The eligibility of an application for summary review pursuant to Iowa Code section 135.66 will be at the department's discretion.

123.5(3) Upon receipt of a request for summary review, an application, and the fee required by Iowa Code section 135.62(1), the department will notify the applicant within 15 calendar days if the application is complete and if a summary review will be granted.

123.5(4) If an application is deemed incomplete, the department will state specifically in writing what information is needed to make the application complete.

123.5(5) If the department notifies an applicant that a summary review will not be performed, this decision is binding on the applicant and the application will be entered into the formal review process on the date of written notice that such application will not be reviewed summarily.

123.5(6) A summary review of an application for a certificate of need will be completed within 60 calendar days of the acceptance of an application by the department. Summary review will follow the process outlined on the department's website.

123.5(7) At any time during the summary review process, an application may be withdrawn without prejudice from the process. An applicant may then submit the application for a formal 90-day review.

[**ARC 0320D**, IAB 5/27/26, effective 7/1/26; **ARC 0769D**, IAB 11/25/26, effective 1/1/27]

441—123.6(135) Extension of review time.

123.6(1) A formal review of an application for a certificate of need pursuant to Iowa Code section 135.65 may be extended by the department on the basis of any of the following criteria:

a. In order to review competing applications simultaneously;

b. In the case of technologically innovative equipment, to obtain additional information necessary to evaluate the proposal. The department will specify in writing such additional information as necessary;

c. At the request of an applicant;

d. At the request of the department in order to allow additional time for deliberation on all evidence present. The department will specify the time of the delay and the date on which the final decision will be rendered.

123.6(2) An extension by the department made pursuant to subrule 123.6(1) will in no case be more than 30 calendar days beyond the time a decision is required under Iowa Code section 135.68 unless the applicant and the department agree.

123.6(3) Where none of the provisions of subrule 123.7(1) are applicable and where an application will be automatically denied because of the expiration of time required by Iowa Code section 135.68 for the issuance of a written decision by the department, the department will notify the applicant of the likelihood of an automatic denial and will ask the applicant to request in writing an extension of the review time.

[**ARC 0320D**, IAB 5/27/26, effective 7/1/26; **ARC 0769D**, IAB 11/25/26, effective 1/1/27]

441—123.7(135) Rehearing of certificate of need decision.

123.7(1) An applicant or any affected person who has participated or sought unsuccessfully to participate in the formal review procedure prescribed in Iowa Code section 135.65 may, for good cause shown, electronically file an application for rehearing with the department stating the specific grounds therefor and the relief sought within 20 calendar days after the date of the issuance of the final decision on an application for certificate of need.

123.7(2) Grounds for rehearing include but are not limited to:

a. New significant, relevant information that was unavailable at the date of the hearing;

b. Significant changes in factors or circumstances relied upon by the department in reaching its decision;

c. Demonstration that the department has materially failed to follow its adopted procedures in reaching its decision; or

d. Such other bases as the department determines constitute good cause.

123.7(3) An application for rehearing is deemed to have been denied unless the department grants the application in writing within 20 calendar days after its filing.

123.7(4) If the application for rehearing is granted, the department may issue an order modifying the initial final order. At the department's discretion, public hearing may be granted on the application for rehearing and notice will be provided ten calendar days prior to the rehearing to the person applying for rehearing, the applicant and other affected persons upon request.

123.7(5) The department will issue the final decision on rehearing, stating the basis for its decision, within 60 calendar days after the application for rehearing was granted or 60 calendar days after public hearing or rehearing, whichever is later.

123.7(6) If a rehearing is not requested or an affected party remains dissatisfied after the request for rehearing, an appeal may be taken in the manner provided by Iowa Code chapter 17A. A request for rehearing is not required prior to appeal under Iowa Code section 17A.19.

[**ARC 0320D**, IAB 5/27/26, effective 7/1/26; **ARC 0769D**, IAB 11/25/26, effective 1/1/27]

441—123.8(135) Finality. The certificate of need application process is continuous beginning with submission of an application through issuance of a final decision by the department subject to judicial review under Iowa Code chapter 17A.

123.8(1) The following stages of the process are intermediate and subject to judicial review only to the extent the stages meet criteria for intermediate review under Iowa Code section 17A.19:

a. A decision by the department pursuant to rule 441—123.2(135) that a proposed project does not require a certificate of need;

b. A decision by the department to conduct summary review; and

c. The rejection of an application by the department that fails to provide all information required under Iowa Code section 135.62(1).

123.8(2) The following stages of the process are final decisions subject to judicial review as final agency action under Iowa Code section 17A.19:

a. A decision by the department to disallow summary review;

b. A decision by the department that a proposed project does not require a certificate of need;

c. A decision by the department to approve or deny an application;

d. The department's final decision on an application for rehearing; and

e. A decision by the department to revoke a certificate of need pursuant to rule 441—123.10(135).

[**ARC 0320D**, IAB 5/27/26, effective 7/1/26; **ARC 0769D**, IAB 11/25/26, effective 1/1/27]

441—123.9(135) Request for extension of certificate.

123.9(1) A request by an applicant for an extension of a certificate of need will be filed with the department using the form available on the certificate of need website no later than 30 days prior to the expiration of the certificate of need.

123.9(2) When an extension has been requested, the department will approve or deny the request prior to expiration of the certification. The certificate of need may be revoked by the department at the end of the certification period for insufficient progress in developing the project.

123.9(3) If an extension is denied, an applicant has the right to appeal under the provisions of Iowa Code section 135.69.

[**ARC 0320D**, IAB 5/27/26, effective 7/1/26; **ARC 0769D**, IAB 11/25/26, effective 1/1/27]

441—123.10(135) Application changes after approval.

123.10(1) Once a project has been approved by the department, no changes that vary from or alter the number of approved beds, the approved services or the approved cost by an amount indicated in subrule

123.10(2) may be made unless requested by the applicant and approved by the department. Requests should be filed with the department electronically.

123.10(2) An increase in the actual cost of the project over and above that originally approved will automatically generate review by the department if the increase exceeds the originally approved amount by:

a. Fifteen percent for projects up to $999,999.99;

b. Twelve percent for projects from $1 million to $4,999,999.99;

c. Eight percent for projects $5 million and over.

An increase in the approved cost that falls below the above percentages will be reported to the department.

123.10(3) Failure to notify and receive permission of the department to change the project as originally approved may result in the imposition of sanctions as provided in Iowa Code section 135.72. The department may make a recommendation regarding the imposition of a sanction and the amount of the fine to be imposed.

[**ARC 0320D**, IAB 5/27/26, effective 7/1/26; **ARC 0769D**, IAB 11/25/26, effective 1/1/27]

441—123.11(135) Sanctions. Hearings to determine class I or class II violations pursuant to Iowa Code section 135.72 will be conducted in accordance with 441—Chapter 7.

[**ARC 0320D**, IAB 5/27/26, effective 7/1/26; **ARC 0769D**, IAB 11/25/26, effective 1/1/27]

These rules are intended to implement Iowa Code sections 135.61 through 135.78.

[Filed ARC 0320D (Amended Notice ARC 0175D, IAB 4/1/26; Notice ARC 9796C, IAB 12/10/25), IAB 5/27/26, effective 7/1/26]

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