Senate File 2255

S-5032

Amend Senate File 2255 as follows:

1. By striking everything after the enacting clause and inserting:

<Section 1. Section 135.61, subsection 18, Code 2022, is amended to read as follows:

18. *"New institutional health service"* or *"changed institutional health service"* means any of the following:

a. (1) The construction, development, or other establishment of a new institutional health facility other than a nursing facility regardless of ownership if the building or structure of the new institutional health facility has an interior floor space of forty thousand square feet or more.

(2) The construction, development, or other establishment of a nursing facility regardless of ownership.

b. Relocation of ~~an institutional health~~ a nursing facility.

c. Any capital expenditure, lease, or donation by or on behalf of ~~an institutional health~~ a nursing facility in excess of one million five hundred thousand dollars within a twelve-month period.

d. A permanent change in the bed capacity, as determined by the department, of ~~an institutional health~~ a nursing facility. For purposes of this paragraph, a change is permanent if it is intended to be effective for one year or more.

e. Any expenditure in excess of five hundred thousand dollars by or on behalf of ~~an institutional health~~ a nursing facility for health services which are or will be offered in or through ~~an institutional health~~ a nursing facility at a specific time but which were not offered on a regular basis in or through that ~~institutional health~~ nursing facility within the twelve-month period prior to that time.

f. The deletion of one or more health services, previously offered on a regular basis by ~~an institutional health~~ a nursing facility ~~or health maintenance organization~~ or the relocation of one or more health services from one physical facility to another.

g. Any acquisition by or on behalf of a health care provider or a group of health care providers of any piece of replacement equipment with a value in excess of ~~one~~ ten million ~~five hundred thousand~~ dollars, whether acquired by purchase, lease, or donation.

h. Any acquisition by or on behalf of a health care provider or group of health care providers of any piece of equipment with a value in excess of ~~one~~ ten million ~~five hundred thousand~~ dollars, whether acquired by purchase, lease, or donation, which results in the offering or development of a health service not previously provided. A mobile service provided on a contract basis is not considered to have been previously provided by a health care provider or group of health care providers.

i. (1) Any acquisition by or on behalf of an institutional health facility, other than a nursing facility, or a health maintenance organization of any piece of replacement equipment with a value in excess of ~~one~~ ten million ~~five hundred thousand~~ dollars, whether acquired by purchase, lease, or donation.

(2) Any acquisition by or on behalf of a nursing facility of any piece of replacement equipment with a value in excess of one million five hundred thousand dollars, whether acquired by purchase, lease, or donation.

j. (1) Any acquisition by or on behalf of an institutional health facility, other than a nursing facility, or health maintenance organization of any piece of equipment with a value in excess of ~~one~~ ten million ~~five hundred thousand~~ dollars, whether acquired by purchase, lease, or donation, which results in the offering or development of a health service not previously provided. A mobile service provided on a contract basis is not considered to have been previously provided by an institutional health facility.

(2) Any acquisition by or on behalf of a nursing facility of any piece of equipment with a value in excess of one million five hundred thousand dollars, whether acquired by

purchase, lease, or donation, which results in the offering or development of a health service not previously provided.

k. Any air transportation service for transportation of patients or medical personnel in excess of ten million dollars offered through an institutional health facility at a specific time but which was not offered on a regular basis in or through that institutional health facility within the twelve-month period prior to the specific time.

l. Any mobile health service with a value in excess of ~~one~~ ten million ~~five hundred thousand~~ dollars.

m. Any of the following with a value in excess of ten million dollars:

(1) Cardiac catheterization service.

(2) Open heart surgical service.

(3) Organ transplantation service.

(4) Radiation therapy service applying ionizing radiation for the treatment of malignant disease using megavoltage external beam equipment.

Sec. 2. Section 135.61, Code 2022, is amended by adding the following new subsection:

NEW SUBSECTION. 18A. *"Nursing facility"* means the same as defined in section 135C.1.

Sec. 3. Section 135.63, Code 2022, is amended to read as follows:

135.63 Certificate of need required — exclusions.

1. A new institutional health service or changed institutional health service shall not be offered or developed in this state without prior application to the department for and receipt of a certificate of need, pursuant to this subchapter. The application shall be made upon forms furnished or prescribed by the department and shall contain such information as the department may require under this subchapter. The application shall be accompanied by a fee equivalent to three-tenths of one percent of the anticipated cost of the project with a minimum fee of six hundred dollars

and a maximum fee of twenty-one thousand dollars. The fee shall be remitted by the department to the treasurer of state, who shall place it in the general fund of the state. If an application is voluntarily withdrawn within thirty calendar days after submission, seventy-five percent of the application fee shall be refunded; if the application is voluntarily withdrawn more than thirty but within sixty days after submission, fifty percent of the application fee shall be refunded; if the application is withdrawn voluntarily more than sixty days after submission, twenty-five percent of the application fee shall be refunded. Notwithstanding the required payment of an application fee under this subsection, an applicant for a new institutional health service or a changed institutional health service offered or developed by an intermediate care facility for persons with an intellectual disability or an intermediate care facility for persons with mental illness as defined pursuant to section 135C.1 is exempt from payment of the application fee.

2. This subchapter shall not be construed to augment, limit, contravene, or repeal in any manner any other statute of this state which may authorize or relate to licensure, regulation, supervision, or control of, nor to be applicable to:

~~*a.* Private offices and private clinics of an individual physician, dentist, or other practitioner or group of health care providers, except as provided by section 135.61, subsection 18, paragraphs "*g*", "*h*", and "*m*", and section 135.61, subsections 20 and 21.~~

~~*b.* Dispensaries and first aid stations, located within schools, businesses, or industrial establishments, which are maintained solely for the use of students or employees of those establishments and which do not contain inpatient or resident beds that are customarily occupied by the same individual for more than twenty-four consecutive hours.~~

~~*c.* Establishments such as motels, hotels, and boarding houses which provide medical, nursing personnel, and other~~

~~health related services as an incident to their primary business or function.~~

~~*d.*~~ *a.* The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination.

~~*e. A health maintenance organization or combination of health maintenance organizations or an institutional health facility controlled directly or indirectly by a health maintenance organization or combination of health maintenance organizations, except when the health maintenance organization or combination of health maintenance organizations does any of the following:*~~

~~(1) Constructs, develops, renovates, relocates, or otherwise establishes an institutional health facility.~~

~~(2) Acquires major medical equipment as provided by section 135.61, subsection 18, paragraphs "i" and "j".~~

~~*f.*~~ *b.* A residential care facility, as defined in section 135C.1, including a residential care facility for persons with an intellectual disability, notwithstanding any provision in this subchapter to the contrary.

~~*g.* (1)~~ *c.* A reduction in bed capacity of an institutional health facility, notwithstanding any provision in this subchapter to the contrary, if all of the following conditions exist:

~~(a)~~ (1) The institutional health facility reports to the department the number and type of beds reduced on a form prescribed by the department at least thirty days before the reduction. In the case of a health care facility, the new bed total must be consistent with the number of licensed beds at the facility. In the case of a hospital, the number of beds must be consistent with bed totals reported to the department of inspections and appeals for purposes of licensure and certification.

~~(b)~~ (2) The institutional health facility reports the new bed total on its next annual report to the department.

~~(2) If these conditions are not met, the institutional health facility is subject to review as a "new institutional health service" or "changed institutional health service" under section 135.61, subsection 18, paragraph "d", and subject to sanctions under section 135.73. If the institutional health facility reestablishes the deleted beds at a later time, review as a "new institutional health service" or "changed institutional health service" is required pursuant to section 135.61, subsection 18, paragraph "d".~~

~~h. (1)~~ *d.* The deletion of one or more health services, previously offered on a regular basis by an institutional health facility or health maintenance organization, notwithstanding any provision of this subchapter to the contrary, if all of the following conditions exist:

~~(a)~~ (1) The institutional health facility or health maintenance organization reports to the department the deletion of the service or services at least thirty days before the deletion on a form prescribed by the department.

~~(b)~~ (2) The institutional health facility or health maintenance organization reports the deletion of the service or services on its next annual report to the department.

~~(2) If these conditions are not met, the institutional health facility or health maintenance organization is subject to review as a "new institutional health service" or "changed institutional health service" under section 135.61, subsection 18, paragraph "f", and subject to sanctions under section 135.73.~~

~~(3) If the institutional health facility or health maintenance organization reestablishes the deleted service or services at a later time, review as a "new institutional health service" or "changed institutional health service" may be required pursuant to section 135.61, subsection 18.~~

~~i.~~ *e.* A residential program exempt from licensing as a

health care facility under chapter 135C in accordance with section 135C.6, subsection 8.

~~*j.*~~ *f.* The construction, modification, or replacement of nonpatient care services, including parking facilities, heating, ventilation and air conditioning systems, computers, telephone systems, medical office buildings, and other projects of a similar nature, notwithstanding any provision in this subchapter to the contrary.

~~*k.* (1)~~ *g.* The redistribution of beds by a hospital within the acute care category of bed usage, notwithstanding any provision in this subchapter to the contrary, if all of the following conditions exist:

~~(a)~~ (1) The hospital reports to the department the number and type of beds to be redistributed on a form prescribed by the department at least thirty days before the redistribution.

~~(b)~~ (2) The hospital reports the new distribution of beds on its next annual report to the department.

~~(2) If these conditions are not met, the redistribution of beds by the hospital is subject to review as a new institutional health service or changed institutional health service pursuant to section 135.61, subsection 18, paragraph "d", and is subject to sanctions under section 135.73.~~

~~*l.*~~ *h.* The replacement or modernization of any institutional health facility if the replacement or modernization does not add new health services or additional bed capacity for existing health services, notwithstanding any provision in this subchapter to the contrary. With respect to a nursing facility, "*replacement*" means establishing a new facility within the same county as the prior facility to be closed. With reference to a hospital, "*replacement*" means establishing a new hospital that demonstrates compliance with all of the following criteria through evidence submitted to the department:

(1) Is designated as a critical access hospital pursuant to 42 U.S.C. §1395i-4.

(2) Serves at least seventy-five percent of the same service

area that was served by the prior hospital to be closed and replaced by the new hospital.

(3) Provides at least seventy-five percent of the same services that were provided by the prior hospital to be closed and replaced by the new hospital.

(4) Is staffed by at least seventy-five percent of the same staff, including medical staff, contracted staff, and employees, as constituted the staff of the prior hospital to be closed and replaced by the new hospital.

~~*m.*~~ *i.* Hemodialysis services provided by a hospital or freestanding facility, notwithstanding any provision in this subchapter to the contrary.

~~*n.*~~ *j.* Hospice services provided by a hospital, notwithstanding any provision in this subchapter to the contrary.

~~*o.*~~ *k.* The change in ownership, licensure, organizational structure, or designation of the type of institutional health facility if the health services offered by the successor institutional health facility are unchanged. This exclusion is applicable only if the institutional health facility consents to the change in ownership, licensure, organizational structure, or designation of the type of institutional health facility and ceases offering the health services simultaneously with the initiation of the offering of health services by the successor institutional health facility.

~~*p.*~~ *l.* The conversion of an existing number of beds by an intermediate care facility for persons with an intellectual disability to a smaller facility environment, including but not limited to a community-based environment which does not result in an increased number of beds, notwithstanding any provision in this subchapter to the contrary, including subsection 4, if all of the following conditions exist:

(1) The intermediate care facility for persons with an intellectual disability reports the number and type of beds to be converted on a form prescribed by the department at least

thirty days before the conversion.

(2) The intermediate care facility for persons with an intellectual disability reports the conversion of beds on its next annual report to the department.

~~3. This subchapter shall not be construed to be applicable to a health care facility operated by and for the exclusive use of members of a religious order, which does not admit more than two individuals to the facility from the general public, and which was in operation prior to July 1, 1986. However, this subchapter is applicable to such a facility if the facility is involved in the offering or developing of a new or changed institutional health service on or after July 1, 1986.~~

~~4.~~ 3. A copy of the application shall be sent to the department of human services at the time the application is submitted to the ~~Iowa~~ department of public health.

4. The department shall not process applications for and the council shall not consider a new or changed institutional health service for an intermediate care facility for persons with an intellectual disability unless both of the following conditions are met:

a. The new or changed beds shall not result in an increase in the total number of medical assistance certified intermediate care facility beds for persons with an intellectual disability in the state, exclusive of those beds at the state resource centers or other state institutions, beyond one thousand six hundred thirty-six beds.

b. A letter of support for the application is provided by the county board of supervisors, or the board's designee, in the county in which the beds would be located.

Sec. 4. Section 135.64, subsection 2, Code 2022, is amended to read as follows:

2. In addition to the findings required with respect to any of the criteria listed in subsection 1 of this section, the council shall grant a certificate of need for a new institutional health service or changed institutional health

service only if it finds in writing, on the basis of data submitted to it by the department, that all of the following conditions are met:

a. Less costly, more efficient, or more appropriate alternatives to the proposed institutional health service are not available and the development of such alternatives is not practicable~~;~~.

b. Any existing facilities providing institutional health services similar to those proposed are being used in an appropriate and efficient manner~~;~~.

c. In the case of new construction, alternatives including but not limited to modernization or sharing arrangements have been considered and have been implemented to the maximum extent practicable~~;~~.

d. Patients will experience serious problems in obtaining care of the type which will be furnished by the proposed new institutional health service or changed institutional health service, in the absence of that proposed new service.

Sec. 5. Section 135.67, subsection 1, Code 2022, is amended to read as follows:

1. The department may waive the letter of intent procedures prescribed by section 135.65 and substitute a summary review procedure, which shall be established by rules of the department, when it accepts an application for a certificate of need for a project which meets any of the criteria in paragraphs *"a"* through *"e"*:

a. A project which is limited to repair or replacement of a facility or equipment damaged or destroyed by a disaster, and which will not expand the facility nor increase the services provided beyond the level existing prior to the disaster.

b. A project necessary to enable the facility or service to achieve or maintain compliance with federal, state, or other appropriate licensing, certification, or safety requirements.

c. A project which will not change the existing bed capacity of the nursing facility applicant's facility or service, as

determined by the department, by more than ten percent or ten beds, whichever is less, over a two-year period.

d. A nursing facility project the total cost of which will not exceed one hundred fifty thousand dollars.

e. Any other project for which the applicant proposes and the department agrees to summary review.

Sec. 6. Section 135B.5A, Code 2022, is amended to read as follows:

135B.5A Conversion of a hospital.

A conversion of a long-term acute care hospital, rehabilitation hospital, or psychiatric hospital as defined by federal regulations to a general hospital or to a specialty hospital of a different type ~~is a permanent change in bed capacity and~~ that results in a building or structure with a floor space of forty thousand square feet or more shall require a certificate of need pursuant to section 135.63.

Sec. 7. Section 135H.6, subsection 1, paragraph d, Code 2022, is amended to read as follows:

d. The applicant has been awarded a certificate of need, if applicable pursuant to chapter 135~~, unless exempt as provided in this section~~.

Sec. 8. ADMINISTRATIVE RULES. The department of public health, in accordance with section 135.72, may adopt rules pursuant to chapter 17A to administer this Act.>

2. Title page, by striking lines 1 and 2 and inserting <An Act relating to the certificate of need process.>

JEFF EDLER