

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 765**

FINAL READING

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

Read first time January 09, 2008

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to health; to amend sections 71-5829.03 and  
2 71-5829.06, Reissue Revised Statutes of Nebraska; to  
3 change provisions relating to certificates of need; and  
4 to repeal the original sections.

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

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

3           71-5829.03 No person, including persons acting for or  
4 on behalf of a health care facility, shall engage in any of the  
5 following activities without having first applied for and received  
6 the necessary certificate of need:

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

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

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

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

22          ~~(3)~~ (4) A relocation of long-term care beds from a  
23 health care facility at one physical facility or contiguous site to  
24 another noncontiguous site within the same health planning region  
25 if the relocation will cause an aggregate increase in long-term

1 care beds between those locations of more than ten beds or more  
2 than ten percent of the total bed capacity, whichever is less, over  
3 a two-year period;

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

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

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

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

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

22 (7) Any initial establishment of rehabilitation beds  
23 through conversion by a hospital of any type of hospital beds to  
24 rehabilitation beds if the total beds converted by the hospital  
25 are more than ten beds or more than ten percent of the total

1 bed capacity of such hospital, whichever is less, over a two-year  
2 period; or

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

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

7 71-5829.06 All rehabilitation beds which require a  
8 certificate of need are subject to a moratorium, ~~except under~~  
9 ~~the following condition:~~ unless one of the following exceptions  
10 applies:

11 (1) If the average occupancy for all rehabilitation beds  
12 located in Nebraska has exceeded ninety percent occupancy during  
13 the most recent three consecutive calendar quarters as reported  
14 at the time of the filing of the application, the department may  
15 grant an exception to the moratorium and issue a certificate of  
16 need. If the department determines the average occupancy for all  
17 rehabilitation beds located in Nebraska does not exceed ninety  
18 percent occupancy during the most recent three consecutive calendar  
19 quarters as reported at the time of the filing of the application,  
20 the department shall deny the application; or-

21 (2) If the average occupancy for all rehabilitation beds  
22 within a health planning region exceeds eighty percent occupancy  
23 during the most recent three consecutive calendar quarters as  
24 reported at the time of the filing of the application and no other  
25 comparable services are otherwise available in the health planning

1 region, the department shall grant an exception to the moratorium  
2 and issue a certificate of need for up to three rehabilitation  
3 beds.

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