

HOUSE BILL NO. HB0199

Medical equipment certificate of need commission.

Sponsored by: Representative(s) Hallinan, Clem and Laursen

A BILL

for

1 AN ACT relating to public health and safety; creating the
2 medical equipment certificate of need commission to
3 regulate the purchase of medical equipment as specified;
4 providing for the commission's administration; creating the
5 hospital project loan account; granting the commission loan
6 authority as specified; providing a continuous
7 appropriation; imposing assessments on hospitals as
8 specified; providing penalties; and providing for effective
9 dates.

10

11 *Be It Enacted by the Legislature of the State of Wyoming:*

12

13 **Section 1.** W.S. 35-2-1201 through 35-2-1207 are
14 created to read:

15

16

ARTICLE 12

1 MEDICAL EQUIPMENT CERTIFICATE OF NEED COMMISSION

2

3 **35-2-1201. Definitions.**

4

5 (a) As used in this article:

6

7 (i) "Account" means the hospital project loan
8 account created by W.S. 35-2-1204;

9

10 (ii) "Commission" means the medical equipment
11 certificate of need commission created under W.S.
12 35-2-1202;

13

14 (iii) "Department" means the Wyoming department
15 of health;

16

17 (iv) "Hospital" means as defined by W.S.
18 35-2-901(a)(xiii);

19

20 (v) "Project" means the placement of any
21 computed tomographic (CT) scanning or magnetic resonance
22 imaging (MRI) equipment into a hospital, private office of
23 a health care professional or other health care facility.

1

2 **35-2-1202. Medical equipment certificate of need**
3 **commission created; powers and duties.**

4

5 (a) There is created the medical equipment
6 certificate of need commission within the department of
7 health consisting of five (5) members appointed by the
8 governor. Two (2) of the members shall be representative of
9 employers in the state that provide health insurance for
10 their employees. Except for the initial members, the term
11 of office of each member of the commission shall be three
12 (3) years. The governor may reappoint members to subsequent
13 terms and may remove appointees as provided by W.S.
14 9-1-202. The director of the department, or his designee,
15 shall serve as a nonvoting ex officio member of the
16 commission. Any vacancy of a member of the commission shall
17 be filled by the governor for the remainder of the
18 unexpired term of the member.

19

20 (b) Initial commission member appointments shall be
21 for staggered terms with two (2) members being appointed
22 for two (2) year terms, two (2) members being appointed for
23 three (3) year terms and the remaining member being

1 appointed to a one (1) year term. Thereafter, appointed
2 members shall serve three (3) year terms.

3

4 (c) Appointed members of the commission shall receive
5 no compensation, but shall be reimbursed under W.S. 9-3-102
6 and 9-3-103 for per diem and travel expenses incurred in
7 the performance of their duties on the commission.

8

9 (d) The commission shall select a chairman and such
10 other officers as it deems necessary and shall keep a
11 record of its proceedings. The commission shall meet not
12 less than one (1) time per year but shall otherwise meet at
13 the call of the chairman or upon request of a majority of
14 its members. A majority of the members of the commission
15 shall constitute a quorum to conduct business of the
16 commission. The director of the department's presence or
17 absence shall not affect the quorum.

18

19 (e) In accordance with rules promulgated by the
20 department, the commission shall:

21

1 (i) Review certificate of need applications
2 submitted for proposed projects as specified by W.S.
3 35-2-1203;

4

5 (ii) Review project loan applications submitted
6 by hospitals as specified by W.S. 35-2-1205;

7

8 (iii) Continually monitor the hospital project
9 loan account to ensure the funds in the account are
10 adequate to pay all approved project loans and to fund the
11 administration of this article;

12

13 (iv) Assist the department in promulgating rules
14 required under this article;

15

16 (v) Report not later than September 1 of each
17 year to the governor, the joint labor, health and social
18 services interim committee and the joint appropriations
19 committee with a summary of the commission's work,
20 including:

21

22 (A) The number of certificate of need
23 applications received, approved and denied by the

1 commission and an explanation of the projects sought
2 through each application; and

3

4 (B) The number of project loan applications
5 received, approved and denied by the commission, including
6 the amounts sought under each project loan application, an
7 explanation of the project necessitating each project loan
8 application, the status of all outstanding project loan
9 commitments and repayments and the name and location of
10 each hospital receiving a project loan.

11

12 (f) The department shall provide necessary
13 administrative, technical and clerical support to the
14 commission in administering this article.

15

16 **35-2-1203. Certificate of need required; criteria for**
17 **determining need.**

18

19 (a) No person shall commence any project without
20 first obtaining a certificate of need issued by the
21 commission. Any person seeking a certificate of need from
22 the commission shall submit a certificate of need

1 application to the commission on forms prescribed by and
2 subject to rules promulgated by the department.

3

4 (b) No certificate of need shall be issued to an
5 applicant unless the commission has determined that there
6 is a public need for the project as demonstrated by the
7 application. If the commission determines that a public
8 need exists for only a portion of a project, a certificate
9 may be issued for that portion of the project. In
10 determining whether an applicant has demonstrated a public
11 need for a project, the commission shall consider:

12

13 (i) The extent to which the proposed project
14 will meet the needs of the residents of the area to be
15 served including the effects that the project will have on
16 access to needed services in areas having distinct and
17 unique geographic, socioeconomic, cultural, transportation
18 and other barriers to access to care;

19

20 (ii) The availability of reasonable alternatives
21 to the project that would meet the needs of the residents
22 in a less costly, more efficient or more effective manner,

1 including cooperative efforts to meet regional health care
2 needs;

3

4 (iii) The extent to which the project may foster
5 competition that benefits the area to be served while
6 improving access to needed health care services;

7

8 (iv) The feasibility of the project, including
9 the financial benefits of the project to the applicant, the
10 cost of installation or implementation, the availability of
11 financial and human resources and the anticipated cost;

12

13 (v) Any other factors that may be relevant to
14 the determination of public need for a project as
15 determined by the commission;

16

17 (vi) In the case of a project proposed by or
18 affecting a teaching hospital associated with a public
19 institution of higher education:

20

21 (A) The unique research, training and
22 clinical mission of the teaching hospital; and

23

1 (B) Any contribution the teaching hospital
2 may provide in the delivery, innovation and improvement of
3 health care in the area, including for indigent or
4 underserved populations.

5

6 **35-2-1204. Hospital project loan account created;**
7 **loans from account.**

8

9 (a) There is created the hospital project loan
10 account. In addition to any legislative appropriation, the
11 account shall consist of:

12

13 (i) Loan repayments for project loans approved
14 by the commission under W.S. 35-2-1205; and

15

16 (ii) Amounts collected or received by the
17 department from hospital assessments under W.S. 35-2-1206.

18

19 (b) The state treasurer shall invest amounts
20 deposited within the account in accordance with law and all
21 investment earnings shall be credited back to the account.
22 Unless otherwise directed by the legislature in an
23 appropriation, funds in the account are continuously

1 appropriated to the commission for the purposes specified
2 in this section.

3

4 (c) The account shall be used exclusively for the
5 following purposes:

6

7 (i) To fund project loans approved by the
8 commission under W.S. 35-2-1205 for projects for which the
9 commission has issued a certificate of need under W.S.
10 35-2-1203; and

11

12 (ii) To pay administrative expenses incurred by
13 the department and the commission under this article,
14 provided that reimbursement for administrative expenses in
15 any fiscal year shall not exceed a total of one percent
16 (1%) of the aggregate assessment funds collected in that
17 fiscal year.

18

19 **35-2-1205. Project loan applications; commission**
20 **review; requirements.**

21

22 (a) Any hospital seeking a certificate of need from
23 the commission may submit a project loan application to the

1 commission for the project that is the subject of the
2 certificate of need. The project loan application shall be
3 on forms prescribed by and subject to rules promulgated by
4 the department. All project loan applications accepted by
5 the commission shall conform with the criteria established
6 by law and rules promulgated by the department.

7

8 (b) The commission shall review completed project
9 loan applications that conform to the requirements of this
10 article. Within sixty (60) days of receipt of each project
11 loan application, the commission shall approve or
12 disapprove the application and determine the terms and
13 conditions of each approved project loan in accordance with
14 this article and rules of the department. No project loan
15 shall be approved for any purpose other than to purchase
16 the project for which the commission issued a certificate
17 of need under W.S. 35-2-1203. No project loans shall be
18 made under this article to refinance existing loans or
19 allow the refinancing of existing loans.

20

21 (c) No project loans shall be approved by the
22 commission except upon adequate security as to the payment
23 of the principal by a pledge of and lien upon collateral

1 security in the amounts the commission, in consultation
2 with the attorney general, determines to be necessary to
3 assure the payment of the project loans as they become due.

4

5 (d) The commission may only approve loans to
6 hospitals from the account created under W.S. 35-2-1204 for
7 the purchase of projects for which the commission has
8 issued a certificate of need under W.S. 35-2-1203. Any
9 approved project loan shall not exceed three hundred
10 thousand dollars (\$300,000.00) and shall not exceed a term
11 of twenty (20) years for repayment for each project loan.
12 Project loans shall be made under this section only if
13 there are sufficient funds in the account to fully fund the
14 project loans and satisfy all other outstanding commitments
15 and obligations.

16

17 (e) The principal of each project loan issued under
18 this section shall be repaid by the debtor hospital in
19 equal annual payments as determined by the department as
20 prescribed by rule. The interest charged on each project
21 loan under this section shall be equal to the average rate
22 of return realized on all permanent mineral trust fund
23 investments as determined by the state treasurer for the

1 five (5) calendar years immediately preceding the year in
2 which the project loan is made. Interest on project loans
3 made under this section shall be paid annually from the
4 account using assessments levied upon each hospital under
5 W.S. 35-2-1206.

6

7 (f) No funding shall be provided for any project loan
8 approved under this section except upon the written opinion
9 of the attorney general certifying the legality of the
10 transaction and all connected documents. Upon an approved
11 project loan application by the commission and
12 certification by the attorney general, funding from the
13 hospital project loan account may be distributed to the
14 debtor hospital.

15

16 (g) In consultation with the commission, the
17 department shall promulgate rules for the administration of
18 the project loan program created under this section,
19 including required loan documentation, review and approval
20 procedures, default obligations and other loan procedures
21 and obligations.

22

23 **35-2-1206. Assessments.**

1

2 (a) Each hospital shall pay a hospital project
3 assessment to the department in accordance with this
4 section and the rules of the department. Any information or
5 documentation submitted by a hospital under this section
6 shall be confidential and shall not be deemed a public
7 record under W.S. 16-4-201 through 16-4-205 and shall not
8 be subject to subpoena and shall not be subject to
9 discovery or be admissible in evidence in any private civil
10 action.

11

12 (b) The assessment due under this section shall be
13 imposed each fiscal year in the amount of one-quarter
14 percent (1/4%) of each hospital's gross receipts for
15 patient services.

16

17 (c) The department shall collect and each hospital
18 shall pay the assessment required by this section on a
19 quarterly basis, each payment constituting twenty-five
20 percent (25%) of the annual assessment calculated by the
21 department. The initial payment shall be due not later than
22 forty-five (45) days after the department has provided
23 notice to each hospital of the hospital's specific

1 assessment. Subsequent payments shall be due not later than
2 forty-five (45) days after the end of each calendar quarter
3 unless a later date is set by the department.

4

5 (d) If a person conducts, operates or maintains more
6 than one (1) hospital licensed by the department, the
7 person shall pay the assessment for each hospital
8 separately.

9

10 **35-2-1207. Penalties.**

11

12 (a) If a person fails to obtain a certificate of need
13 before commencing a project as required under this article,
14 the person shall be liable for a civil penalty of not less
15 than ten thousand dollars (\$10,000.00) and not more than
16 fifty thousand dollars (\$50,000.00). The penalty under this
17 section may be reduced or waived by the commission for good
18 cause shown as specified by rule of the department.

19

20 (b) If a hospital fails to pay an assessment when due
21 under this chapter, there shall be added to the assessment
22 a penalty equal to five percent (5%) of the amount of the
23 assessment that was not paid when due. Any payments after a

1 penalty is assessed under this section shall be credited
2 first to unpaid assessment amounts rather than to penalty
3 or interest amounts, beginning with the most delinquent
4 installment.

5

6 (c) In addition to the penalty under subsection (b)
7 of this section, the department may develop a plan that
8 requires the hospital to pay any delinquent assessment in
9 installments.

10

11 **Section 2.** The department of health shall promulgate
12 rules and regulations necessary to implement this act on or
13 before January 1, 2021.

14

15 **Section 3.**

16

17 (a) Except as provided in subsection (b) of this
18 section, this act is effective January 1, 2021.

19

1 (b) Sections 2 and 3 of this act are effective
2 immediately upon completion of all acts necessary for a
3 bill to become law as provided by Article 4, Section 8 of
4 the Wyoming Constitution.

5

6

(END)