

CHAPTER 33

CERTIFICATE OF NEED: APPLICATION AND REVIEW PROCESS

Authority

N.J.S.A. 26:2H-1 et seq.

Source and Effective Date

R.1998 d.278, effective June 1, 1998.
See: 30 N.J.R. 1005(a), 30 N.J.R. 1991(a).
R.1998 d.303, effective June 15, 1998.
See: 30 N.J.R. 303(a), 30 N.J.R. 2270(b).

Executive Order No. 66(1978) Expiration Date

Chapter 33, Certificate of Need: Application and Review Process, expires on June 1, 2003.

Chapter Historical Note

Chapter 33 was adopted as R.1972 d.93, effective on May 11, 1972. See: 4 N.J.R. 25(a), 4 N.J.R. 124(a). Chapter 33 was amended by R.1975 d.315, effective December 1, 1975. See: 7 N.J.R. 362(a), 7 N.J.R. 503(a); R.1979 d.283, effective July 20, 1979. See: 11 N.J.R. 174(a), 11 N.J.R. 439(a); R.1980 d. 36, effective January 17, 1980. See: 11 N.J.R. 620(a), 12 N.J.R. 75(e); R.1980 d.123, effective March 20, 1980. See: 12 N.J.R. 73(d), 12 N.J.R. 186(c); R.1981 d.296, effective August 6, 1981. See: 13 N.J.R. 267(a), 13 N.J.R. 487(b); and R.1983 d.205, effective June 6, 1983. See: 15 N.J.R. 307(b), 15 N.J.R. 920(c).

Pursuant to Executive Order No. 66(1978), Chapter 33 was readopted as R.1983 d.604, effective December 14, 1983. See: 15 N.J.R. 1708(b), 16 N.J.R. 48(a). Chapter 33 was repealed and a new Chapter 33, Certificate of Need: Application and Review, was adopted by R.1985 d.498, effective October 7, 1985. See: 17 N.J.R. 1190(a), 17 N.J.R. 2402(a).

Pursuant to Executive Order No. 66(1978), Chapter 33 was readopted as R.1990 d.417, effective July 27, 1990. See: 22 N.J.R. 1494(a), 22 N.J.R. 2506(a).

Subchapters 1 through 4 were repealed and a new Subchapter 1, General Provisions; Subchapter 2, Applicability of Certificate of Need Requirements; Subchapter 3, Types of Certificate of Need Applications; Subchapter 4, The Review Process; and Subchapter 5, Expedited Review Process, were adopted as new rules by R.1992 d.342, effective September 8, 1992. See: 24 N.J.R. 2222(a), 24 N.J.R. 3104(a). As a part of R.1992 d.342, Section 5.1 was recodified as 6.1. Subchapter 6, Certificate of Need Moratorium, was repealed and a new Subchapter 6, Certificate of Need Exemptions, was adopted as new rules by R.1993 d.442, effective September 7, 1993. See: 25 N.J.R. 2171(a), 25 N.J.R. 4129(a). Subchapter 7, Direct Review Process, was adopted as R.1996 d.101, effective February 20, 1996. See: 27 N.J.R. 4179(a), 28 N.J.R. 1228(a). Pursuant to Executive Order No. 66(1978), Chapter 33, Certificate of Need: Application and Review, expired on September 8, 1997.

Chapter 33, Certificate of Need: Application and Review Process, consisting of 8:33-1.3, 8:33-3.11 and 8:33-5.1, was originally adopted as new rules by R.1998 d.278, effective June 1, 1998. The balance of the chapter was adopted as new rules by R.1998 d.303, effective June 15, 1998. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

8:33-1.1 Purpose and scope

(a) The purpose of these rules is to implement the provisions of the Health Care Facilities Planning Act, P.L. 1971, c.136, as amended by P.L. 1978, c.83, the Health Care Cost Reduction Act, P.L. 1991, c.187, and the Health Care Reform Act, P.L. 1992, c.160. These rules may be amended as necessary, in accordance with N.J.S.A. 52:14B-1 et seq., the Administrative Procedure Act, and N.J.A.C. 1:30, Agency Rulemaking, to best implement the statutory provisions and to reflect changing economic and systemic conditions within the health care system.

(b) These rules apply to the initiation, construction and/or expansion of all health care facilities and services as identified in the Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq. and/or Appendix Exhibits 1 through 4 of this chapter, incorporated herein by reference. Applicants for certificates of need are advised that the policies, standards, and criteria set forth in this chapter are in addition to, and not in limitation of, any other applicable certificate of need authorities, specifically including, but not limited to, those in N.J.S.A. 26:2H-1 et seq., the service-specific health planning rules, any applicable licensing authorities, or any specific conditions imposed upon facilities or services by the Commissioner in their particular certificate of need approvals.

(c) All inquiries regarding certificate of need matters should be directed to:

Certificate of Need and Acute Care Licensure Program
New Jersey State Department of Health and Senior Services
PO Box 360, Room 604
Health-Agriculture Building
John Fitch Plaza
Trenton, New Jersey 08625-0360
(609) 292-6552

(d) In addition to (a) through (c) above, before filing a certificate of need application, prospective applicants are encouraged to contact the local advisory board in the service area(s) in which their proposed health care service(s) or facility is planned to examine the relationship of the proposed project with the local advisory board's plans and appropriate regulations. If the proposed service area overlaps more than one planning region, the applicant should consult with each of the affected local advisory boards.

8:33-1.2 General statements of public policy and rules of general application

(a) It is the public policy of the State that hospital and related health care services of the highest quality, of demonstrated need, efficiently provided, properly utilized, and at a reasonable cost are of vital concern to the public health. As provided by N.J.S.A. 26:2H-1, in order to provide for the protection and promotion of the health of the inhabitants of the State, promote the financial solvency of hospitals and similar health care facilities and contain the rising cost of health care services, the Department shall have the central, comprehensive responsibility for the development and administration of the State's policy with respect to health planning, hospital and related health care services planning, and health care facility cost containment programs, as well as planning with all public and private institutions whether State, county or municipal, incorporated or not incorporated, serving principally as nursing or maternity homes, residential health care facilities, or as facilities for the prevention, diagnosis, or treatment of human disease, pain, injury, deformity or physical condition(s). All such institutions shall be subject to the provisions established herein.

(b) The Commissioner, to implement the provisions and purposes stated above, shall have the power to inquire into the accessibility to and availability of health care services and the operation of health care facilities and to conduct periodic inspections of such facilities with respect to the fitness and adequacy of the premises, equipment, personnel, rules and bylaws and the adequacy of financial resources and resources of future revenues.

(c) No certificates of need shall be issued unless the action proposed in the application for such certificate is necessary to provide required health care in the area(s) to be served, can be economically accomplished and maintained, will not have an adverse economic or financial impact on the delivery of health care services in the region or Statewide, and will contribute to the orderly development of adequate and effective health care services. In making such determinations there shall be taken into consideration the availability of facilities or services which serve as alternatives or substitutes, the need for special equipment and services in the area, the possible economies and improvement in services to be anticipated from the operation of joint central services, the adequacy of financial resources and sources of present and future revenues, the availability of sufficient health personnel supply in the several professional disciplines, the accessibility to and availability of health care services to low income persons, and such other factors as may be established by regulation. In the case of an application by a health care facility established or operated by any recognized religious body or denomination, the needs of the members of such religious body or denomination for care and treatment in accordance with their religious or ethical convictions may be considered to be public need.