

HB 389-FN - AS INTRODUCED

2015 SESSION

15-0423
01/04

HOUSE BILL **389-FN**

AN ACT repealing the certificate of need moratorium.

SPONSORS: Rep. Tucker, Rock 23; Rep. Seidel, Hills 28; Rep. Kappler, Rock 3; Rep. Itse, Rock 10; Rep. Simmons, Hills 17; Rep. Baldasaro, Rock 5; Rep. C. McGuire, Merr 29; Rep. Rideout, Coos 7; Rep. Hill, Merr 3

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill repeals the certificate of need moratorium on nursing home and rehabilitation beds. Current law extends the moratorium until June 30, 2016. Under this bill, the moratorium would end on June 30, 2015.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struck through~~].
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fifteen

AN ACT repealing the certificate of need moratorium.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Certificate of Need; Nursing Home Beds; Rehabilitation Beds; Moratorium. Amend RSA 151-
2 C:4, III(a) to read as follows:

3 III.(a) No new certificate of need shall be granted by the board for any nursing home, skilled
4 nursing facility, intermediate care facility, or rehabilitation facility from the effective date of chapter
5 310, laws of 1995, department of health and human services reorganization act, through the period
6 ending June 30, ~~2016~~ **2015**. This moratorium shall also apply to new certificates of need regarding
7 any rehabilitation bed in any type of facility, including rehabilitation hospitals and facilities offering
8 comprehensive rehabilitation services. However, a certificate of need shall be issued for replacement
9 or renovation of existing beds as necessary to meet life safety code requirements or to remedy
10 deficiencies noted in a licensing inspection pursuant to RSA 151 or state survey and certification
11 process pursuant to titles XVIII and XIX of the Social Security Act. In addition, a certificate of need
12 may be issued for construction or renovation as necessary to repair or refurbish an existing facility,
13 or to accommodate additional beds obtained by transfer to an existing facility. In the case of repair,
14 refurbishment, or transferred beds, the resulting costs in excess of the current capital expenditure
15 threshold as adjusted for inflation pursuant to RSA 151-C:5, II(f)(1) shall not be reflected in any
16 state Medicaid rate. Any application for a certificate of need under this subparagraph shall indicate
17 whether it is for a life safety code requirement or to remedy deficiencies noted in a licensing
18 inspection or whether it is for repair or refurbishment of an existing facility or for transferred beds.
19 If the application is approved, it shall be deemed that the board has agreed with the indicated reason
20 for such application.

21 2 Effective Date. This act shall take effect upon its passage.

HB 389-FN - FISCAL NOTE

AN ACT repealing the certificate of need moratorium.

FISCAL IMPACT:

The Department of Health and Human Services and the New Hampshire Association of Counties state this bill, **as introduced**, may increase state and county revenue and expenditures by an indeterminable amount in FY 2016 and each year thereafter. There will be no fiscal impact on local revenues or expenditures.

METHODOLOGY:

The Department of Health and Human Services and New Hampshire Association of Counties state this bill repeals the Certificate of Need moratorium on nursing home and inpatient physical rehabilitation beds effective June 30, 2015. Under current law the moratorium ends on June 30, 2016. The Department states the nursing home bed formula, established under RSA 151-C:4, III. (b), specifies a Certificate Of Need shall not be granted if it will result in the total number of licensed nursing facility beds in the region to exceed 40 beds per each 1,000 persons aged 65 or older living in the region. The Health Services Planning and Review Board is responsible to review and approve requests for Certificates of Need. The Board annually determines the State's unmet need for nursing home beds, pursuant to Administrative Rule He-Hea 904.3(a). The Department details the most recent Board determination for nursing home bed need by county in the table below, which identifies an unmet demand of 1,188 beds.

County	Number of Beds Needed (Over bedded)
Belknap	86
Carrol	112
Cheshire	10
Coos	(130)
Grafton	200
Hillsborough	62
Merrimack	(1)
Rockingham	681
Strafford	97
Sullivan	71

Total	1,188
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The Department and Association state that if the moratorium is lifted and the unmet demand for nursing home beds was approved by the Board, state and county expenditures would increase by indeterminable amounts, in FY 2016 and each year thereafter. The Department and Association report that approval of the additional beds may result in new construction, renovations, and increased Medicaid costs for the State and counties. Fifty percent of Medicaid expenditures are paid with federal funds and the remaining fifty percent is paid with county and/or state funds. To the extent there is an increase in Medicaid costs, state and county revenue would also increase.

The Department states the fiscal impact of this bill on inpatient physical rehabilitation beds is indeterminable. The need formula for such beds is completed on a biannual schedule by the Board, pursuant to Administrative Rule He-Hea 702.01, which provides for twelve physical rehabilitation beds per 100,000 by region. The table below details the most recent calculation which shows two regions' bed needs are not met while three regions have more beds than stipulated by Rule. The Department notes inpatient physical rehabilitation beds are not subject to Medicaid reimbursement to the same extent that nursing home beds are.

Rehabilitation Region	2015 Population Estimate Per NH Office of Energy & Planning	Rehabilitation Bed Need (12 per 100,000)	Current Licensed Beds	Unmet Bed Need
Central	255,172	30.62	50	(19)
Northern	76,636	9.20	0	9
Seacoast	280,340	33.64	33	1
Southern	519,229	62.31	153	(91)
Western	199,459	23.94	86	(62)
Total	1,330,836	159.70	322	(162)

The Department states the Board is authorized to collect annual administrative fees from all owners of nursing home, inpatient physical rehabilitation, hospital, and other specialty beds not to exceed \$500,000, based on the number of beds maintained by each facility. The Department indicates this bill may cause the fees paid by nursing homes to increase and the fees paid by hospitals and specialty facilities to correspondingly decrease.