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AN ACT

To amend Sections 1, 2, 3, 5, 6, 7, 8, and 13 of Public Law No. 7-33, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1       Section 1. Section 1 of Public Law No. 7-33 is hereby amended to  
2 read as follows:

3               "Section 1. This act may be cited as the Federated States  
4               of Micronesia Health Care Certificate of Need Act."

5       Section 2. Section 2 of Public Law No. 7-33 is hereby amended to  
6 read as follows:

7               "Section 2. Public Policy. The people of the Federated  
8 States of Micronesia are dependent upon the existence of an  
9 efficient, effective, and well coordinated program of health  
10 care services and disease prevention activities. In order  
11 to achieve the necessary level of efficiency, effectiveness,  
12 and coordination there is a continuous, compelling need for  
13 a rational program for the determination of allocations of  
14 scarce health resources. In addition, the impending  
15 termination of the Trusteeship Agreement and the probable  
16 change in resources available for the delivery of health  
17 care and environmental protection require a careful analysis  
18 of the proposed allocation of funds and resources to be used  
19 to provide health care, related services, and environmental  
20 health protection services to insure that those funds and  
21 resources shall be utilized in accordance with the needs of  
22 the people of the Federated States of Micronesia. Therefore,



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1        It is declared to be the public policy of the Federated  
2        States of Micronesia and the purpose of this act to develop  
3        and operate a program which will identify the health needs  
4        of the residents of the Federated States of Micronesia and  
5        insure that resources which are proposed for health programs  
6        or services meet those needs in the most efficient and  
7        effective manner possible. It is not the intent of this  
8        act to prohibit or in any way curtail the development of  
9        private practice of medicine in the Federated States of  
10       Micronesia."

11       Section 3. Section 3 of Public Law No. 7-33 is hereby amended to  
12       read as follows:

13       "Section 3. Definitions. As used in this act unless the  
14       context otherwise requires:

15                (1) 'Certificate of need' means an authorization,  
16       when required under this act, to construct, expand, alter,  
17       or convert a health care facility or to initiate, expand,  
18       or modify a health care service or organization.

19                (2) 'Director' means the Director of the Bureau of  
20       Health Services in his capacity as the Director of the  
21       Micronesia Health Planning and Development Agency.

22                (3) 'Micronesia Health Coordinating Council' means  
23       that health coordinating council created by proclamation  
24       of the High Commissioner on October 6, 1976.

25                (4) 'Agency' means the Bureau of Health Services



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1 in its designated capacity as the Micronesia Health Planning  
2 and Development Agency which was created by designation  
3 agreement between the High Commissioner and the United  
4 States Secretary of Health, Education, and Welfare as the  
5 Trust Territory's designated agency to administer  
6 territorial health planning and development functions. The  
7 term 'Micronesia Health Planning and Development Agency' is  
8 further defined to be synonymous with the terms  
9 'Territorial Health Planning and Development Agency';  
10 'State Health Planning and Development Agency'; and Office  
11 of Health Planning and Development. These terms may be used  
12 interchangeably to mean the same in this act or in the  
13 regulations adopted under this act.

14 (5) The 'territorial health plan' is that comprehensive  
15 five-year health plan prepared and established by the  
16 Micronesia Health Coordinating Council which shall be based  
17 upon state health plans from the several states of the  
18 Federated States of Micronesia and shall include a medical  
19 facilities plan with appropriate consideration given to the  
20 development of facilities and services in the private  
21 sector, and an environmental health section.

22 (6) 'Institutional health services' means health  
23 services provided in or through health care facilities or  
24 health maintenance organizations and includes the entities  
25 in or through which such services are provided.



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1           (7) 'Health care facilities' means hospitals,  
2           psychiatric hospitals, tuberculosis hospitals, skilled  
3           nursing facilities, kidney disease treatment centers  
4           including freestanding hemodialysis units, intermediate  
5           care facilities, ambulatory surgical facilities, and such  
6           other facilities as the Agency by regulation shall so  
7           designate; PROVIDED, that 'health care facilities' shall  
8           not include recognized Christian Science sanatoriums."

9           Section 4. Section 5 of Public Law No. 7-33 is hereby amended to  
10          read as follows:

11           "Section 5. Certificate of Need.

12                   (1) Commencing on January 1, 1978, no person,  
13           corporation, association, political subdivision, or agency,  
14           whether public or private, shall make capital expenditures  
15           for activities enumerated in Subsection (2) of this section  
16           without first obtaining a certificate of need as required  
17           under this act.

18                   (2) A certificate of need shall be required prior to:

19                           (a) The development of all new institutional  
20           health services including, but not limited to, the  
21           construction, development, or other establishment of any  
22           new health facility;

23                           (b) Any capital expenditure by or on behalf of  
24           a health care facility in excess of \$10,000, excluding  
25           expenditures for site acquisitions and acquisitions of



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1           existing health care facilities;

2           (c) The offering by a health care facility of  
3           health services which were not offered on a regular basis  
4           in or through such health care facility within the twelve-  
5           month period next preceding the time such services would be  
6           offered;

7           (d) A change in bed capacity of a health care  
8           facility or health maintenance organization which increases  
9           or decreases the total number of beds (or distributes beds  
10          among various categories, or relocates such beds from one  
11          physical facility or site to another) by more than ten (10)  
12          beds or more than ten percent of total bed capacity,  
13          whichever is less, over a two-year period;

14          (e) Pre-development activity expenditures in  
15          excess of \$20,000 for the offering of new institutional  
16          health services including, but not limited to, expenditures  
17          for preliminary plans, studies, surveys, site acquisitions,  
18          architectural designs, plans, working drawings, and  
19          specifications; PROVIDED, that any certificate of need  
20          issued under this subpart shall be for pre-development  
21          activities only and shall not authorize the offering or  
22          development of the new institutional health service for  
23          which such pre-development activities are proposed; and

24          (f) No arrangement or commitment for financing  
25          the offering or development of a new institutional health



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1 service shall be made by any person, unless a certificate of  
2 need for such services or activities has been granted by the  
3 Agency.

4 (3) Applications for certificates of need shall be  
5 filed with the Agency on application forms provided by the  
6 Agency and shall contain such information and be in such  
7 form as the Director may require.

8 (4) The Agency shall issue a certificate of need to  
9 an applicant if the Agency has determined that the proposed  
10 health facility, service, or organization is in the interest  
11 of public health, safety, and welfare, that such facility or  
12 service is needed in the location it is proposed to be  
13 offered, that such facility or service is compatible with  
14 the priorities of the current Trust Territory health plan,  
15 and that the proposed project complies with this act and  
16 regulations adopted under this act.

17 (5) The Agency shall act upon any application submitted  
18 pursuant to this act within 90 days of receipt of such  
19 application; PROVIDED, that for reasonable cause and upon  
20 notice to the applicant, the Agency may extend its time for  
21 review for a specific period not to exceed 30 additional  
22 days. Failure to act upon an application within the time  
23 herein prescribed shall be deemed a rejection of that  
24 application by the Agency.

25 (6) Any applicant denied a certificate of need under



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1           this section may request, in writing, a public hearing by the  
2           Agency for the purpose of reconsideration. If the  
3           applicant's written request demonstrates good cause, the  
4           Agency shall provide the applicant with a public hearing  
5           consistent with Title 17 and such regulations as the  
6           Director may promulgate."

7           Section 5. Section 6 of Public Law No. 7-33 is hereby amended  
8   to read as follows:

9           "Section 6. Dissemination and publication of certificate  
10          of need program. Upon enactment of this act or amendments  
11          thereto and regulations promulgated pursuant hereto the  
12          Agency shall disseminate to all health care facilities or  
13          health care programs within the Federated States of  
14          Micronesia and shall publish in at least one newspaper of  
15          general circulation the requirements of the certificate  
16          of need program under this act and regulations."

17          Section 6. Section 7 of Public Law No. 7-33 is hereby amended  
18   to read as follows:

19          "Section 7. Review criteria for certificate of need  
20          application.

21                 (1) The Agency shall adopt regulations under this act  
22          which shall prescribe specific criteria for the reviewing  
23          of certificate of need applications which criteria shall  
24          include at least the following general considerations;  
25          PROVIDED, that criteria adopted for review may vary



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1 according to the purpose for which a particular review is  
2 being conducted or the type of health service reviewed:

3 (a) The relationship of the health services  
4 reviewed to the territorial health plan;

5 (b) The relationship of services rendered to the  
6 long-range development plan (if any) of the person providing  
7 or proposing such services;

8 (c) The need that the population served or to be  
9 served by such services has for such services;

10 (d) The availability of less costly or more  
11 effective alternative methods of providing such services;

12 (e) The immediate and long-term financial  
13 feasibility of the proposal, as well as the probable impact  
14 of the proposal on the costs of and charges for providing  
15 health services by the person proposing the new  
16 institutional health service; and

17 (f) The relationship of the services proposed  
18 to be provided to the existing health care system of the  
19 area in which such services are proposed to be provided  
20 and the probable impact of the proposal on the economic  
21 and social development of the Federated States of  
22 Micronesia.

23 (2) Prior to the adoption of review criteria the  
24 Agency shall:

25 (a) Give interested persons an opportunity to



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1 offer written comments on the proposed review criteria; and

2 (b) Distribute copies of its proposed review  
3 criteria to the Micronesia Health Coordinating Council,  
4 government health agencies, private health organizations,  
5 the High Commissioner, Governors, the Secretary of Health,  
6 Education and Welfare, the President of the Federated States  
7 of Micronesia, and to such other persons as shall request  
8 them.

9 (c) The Agency shall distribute copies of its  
10 adopted review criteria and any revisions thereof to the  
11 agencies and organizations specified in paragraph (b) of  
12 this section."

13 Section 7. Section 8 of Public Law No. 7-33 is hereby amended  
14 to read as follows:

15 "Section 8. Certificates of need review process. The  
16 Agency shall adopt regulations under this act which shall  
17 prescribe a review process for certificate of need  
18 applications.

19 (1) Prior to the adoption of regulations prescribing  
20 a review process, the Agency shall:

21 (a) Give all interested parties a reasonable  
22 opportunity to offer written comments on the review  
23 procedures proposed for adoption;

24 (b) Distribute copies of its proposed, adopted  
25 and revised or amended review procedures to private health



1 organizations, the Micronesia Health Coordinating Council,  
2 the Governors, the High Commissioner, the Secretary of Health,  
3 Education and Welfare, the President of the Federated States  
4 of Micronesia, and to such other interested persons as shall  
5 request them; and

6 (c) Publish the proposed review procedures in at  
7 least one newspaper of general circulation in the Federated  
8 States of Micronesia at least 60 days prior to their  
9 adoption.

10 (2) The Agency shall distribute copies of its proposed,  
11 adopted and revised or amended review procedures to the  
12 persons, agencies and organizations specified in paragraph  
13 (1) (b) of this section."

14 Section 8. Section 13 of Public Law No. 7-33 is hereby amended  
15 to read as follows:

16 "Section 13. Reporting. The Director shall submit an  
17 annual report to the Federated States of Micronesia on or  
18 before January 10 of each year on all activities of the  
19 Agency and all funds received by the Agency pursuant to,  
20 or by virtue of this act."

21 Section 9. Effective Date. This act shall become law upon  
22 approval by the President of the Federated States of Micronesia, or  
23 upon its becoming law without such approval.

24  
25 June 8, 1979

