

AN ACT

To further amend Public Law No. 7-33 as amended by Public Law No. 1-7, which established a Health Care Certificate of Need Program, 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 as amended by Public
2 Law No. 1-7 is hereby amended to read as follows:

3 "Section 1. This act may be cited as the Federated States
4 of Micronesia Health Care Certificate of Need Act of 1979."

5 Section 2. Public Law No. 7-33 as amended by Public Law No. 1-7
6 is hereby amended by renumbering Section 14 as Section 26 and by adding
7 the following:

8 "Section 14. Reconsideration of Application Hearings. The
9 agency shall order a public hearing on an application upon
10 written request of the applicant, any affected party, or any
11 bona fide resident of the Federated States of Micronesia, for
12 the purposes of reconsidering an Agency decision, PROVIDED:
13 (a) that the request is received within thirty (30) days after
14 the decision was rendered, and (b) that a good cause is shown.
15 A request for public hearing shall be deemed to have shown good
16 cause if it (1) presents significant relevant information not
17 previously considered by the Agency; (2) demonstrates that there
18 have been significant changes in factors or circumstances relied
19 upon by the Agency in making its decision; (3) demonstrates
20 that the Agency failed to follow appropriate procedures
21 prescribed in these regulations; or (4) that the Agency acted
22 without regard for a conflict of interest situation.

1 Section 15. Appellate Hearings. Notwithstanding the right
2 to reconsideration under Section 14 of this act, any
3 applicant for certificate of need aggrieved by an action of
4 the Agency in denying acceptance of an application, by a
5 finding denying a certificate of need, or by a dismissal of
6 an application, may request and be granted a hearing upon
7 written request filed with the Chief of the Trust Territory
8 Office of Planning and Statistics within thirty (3) days of
9 notification of such action or dismissal.

10 Section 16. Requests for Appellate Hearings. Written requests
11 for an appellate hearing must give detailed and specific
12 grounds for the appeal, specifying violations by the Agency in
13 following Regulations or wrongful interpretation of data and
14 arguments.

15 Section 17. Elective Dispensation. An aggrieved applicant
16 may, at its election, dispense with an appellate hearing and
17 seek Administrative Review pursuant to Section 23 of this Act,
18 or judicial remedy under Title 17 of the Trust Territory Code.

19 Section 18. Evidence and Counsel. During an appellate hearing,
20 the Hearing Officer shall accept written and oral presentations
21 by the appellant and the Agency. The appellant shall have the
22 right to present favorable witnesses or experts whose testimony
23 may support its case. The appellant may be represented by
24 counsel of his choice at no expense to the Agency.

25 Section 19. Public Notice. All appeal hearings shall be duly

1 noticed in accordance with the procedures established by the
2 Trust Territory Office of Planning and Statistics to inform
3 the public of its meetings. Appellate hearings shall be
4 open to the public. Any interested or affected party may
5 timely present written or oral testimony concerning the action
6 under appeal.

7 Section 20. Appellate Hearing Rules of Procedure. The Trust
8 Territory Office of Planning and Statistics shall adopt rules
9 of appeal procedure necessary to ensure a fair appellate
10 hearing which will protect the interests and rights of the
11 Agency and the appellant.

12 Section 21. Appellate Hearing Adjudication. Upon completion
13 of an appellate hearing, all evidence by the Agency, appellant,
14 and other interested parties, in accordance with the promulgated
15 criteria and procedures established for such an appeal, shall
16 be considered by the Trust Territory Office of Planning and
17 Statistics; thereupon, it may:

18 (1) Uphold the decision of the State Health Planning and
19 Development Agency by dismissal of the appeal; or

20 (2) Request further information of the Agency or appellant
21 and continue the hearing at a later date; or

22 (3) Find in favor of the appellant and order the Agency
23 to issue a certificate of need, or to revoke the Agency's
24 dismissal of an application, or to revoke the Agency's
25 termination of a certificate of need.

1 Section 22. Administrative Procedure Act Remedies. In the
2 event that the Trust Territory Office of Planning and
3 Statistics dismisses the appeal, the appellant may seek
4 judicial remedies under Title 17 of the Trust Territory Code.

5 Section 23. Administrative Review without Hearing. Any
6 applicant for a certificate of need aggrieved by an action of
7 the Agency in declining acceptance of an application, or by a
8 finding denying a certificate of need, or by a dismissal of an
9 application, may be granted Administrative Review, without
10 hearing, by the Trust Territory Office of Planning and
11 Statistics of the decision and the record upon which any
12 decision was made. Administrative Review shall be accomplished
13 upon written request filed with the Chief of the Trust Territory
14 Office of Planning and Statistics within thirty (30) days of
15 notification by the Agency of action of dismissal, or denial of
16 determination of need. The Administrative Review must be
17 initiated by the Trust Territory Office of Planning and Statistics
18 within thirty days after timely filing of the request.

19 Section 24. Appellate Hearing Decision. The decision rendered
20 by the Trust Territory Office of Planning and Statistics, shall
21 be considered the final decision of the Agency, unless the
22 appellant seeks judicial remedies under Title 17 of the Trust
23 Territory Code. Such a decision must be made in writing within
24 forty-five (45) days after completion of the appellate hearing
25 or initiation of Administrative Review without hearing pursuant

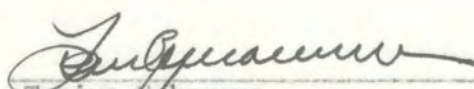
1 to Section 23 of this act. The decision shall be sent by
 2 mail to the applicant, the members of the Micronesia Health
 3 Coordinating Council of the Federated States of Micronesia,
 4 the Review Board, to the Agency, the High Commissioner, and
 5 Secretary of Health, Education and Welfare of the United
 6 States Government. Such decisions must also be made available
 7 to others upon request.

8 Section 25. Decision Inconsistent with District Health Plan
 9 and Applicable Annual Implementation Plan. If a decision
 10 rendered by the Trust Territory Office of Planning and
 11 Statistics is determined by the Agency to be inconsistent with
 12 the goals of the Health Plan and the annual Implementation
 13 Plan of the Federated States of Micronesia, the Agency shall
 14 submit a written, detailed, statement of the reasons for the
 15 inconsistency to the President of the Federated States of
 16 Micronesia, the Secretary of Health, Education and Welfare of
 17 the United States Government, the High Commissioner, the
 18 members of the Micronesia Health Coordinating Council, the
 19 Review Board and the applicant."

20 Section 3. This act shall become law upon approval by the President
 21 of the Federated States of Micronesia, or upon its becoming law without
 22 such approval.

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December 10, 1979


 Tosiwo Nakayama
 President
 Federated States of Micronesia