
HOUSE BILL 1979

State of Washington

69th Legislature

2025 Regular Session

By Representatives Bronoske and Schmick

1 AN ACT Relating to updating certificate of need requirements to
2 promote the stability, efficiency, and equitableness of Washington's
3 cardiac care delivery system; amending RCW 70.38.128; and reenacting
4 and amending RCW 70.38.111.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 70.38.128 and 2007 c 440 s 1 are each amended to
7 read as follows:

8 (1) To promote the stability, efficiency, and equitableness of
9 Washington's cardiac care delivery system, ~~((by July 1, 2008,))~~ the
10 department of health shall adopt rules establishing criteria for the
11 issuance of a certificate of need under this chapter for the
12 performance of elective percutaneous coronary interventions ~~((at~~
13 ~~hospitals that do not otherwise provide on-site cardiac surgery.~~

14 ~~Prior to initiating rule making, the department shall contract~~
15 ~~for an independent evidence-based review of the circumstances under~~
16 ~~which elective percutaneous coronary interventions should be allowed~~
17 ~~in Washington at hospitals that do not otherwise provide on-site~~
18 ~~cardiac surgery. The review shall address, at a minimum, factors~~
19 ~~related to access to care, patient safety, quality outcomes, costs,~~
20 ~~and the stability of Washington's cardiac care delivery system and of~~
21 ~~existing cardiac care providers, and ensure that elective coronary~~

1 ~~intervention volumes at the University of Washington academic medical~~
2 ~~center are maintained at levels required for training of~~
3 ~~cardiologists consistent with applicable accreditation requirements.~~
4 ~~The department shall consider the results of this review, and any~~
5 ~~associated recommendations, in adopting these rules)). The rules must~~
6 ~~be consistent with the certificate of need exemption in RCW~~
7 ~~70.38.111(15).~~

8 (2) In adopting rules under this section, the department shall
9 consider national standards for patient safety and quality outcomes,
10 the ability for patients to access care in their communities, and the
11 ongoing stability of Washington's cardiac care delivery system.

12 **Sec. 2.** RCW 70.38.111 and 2024 c 259 s 5, 2024 c 165 s 1, and
13 2024 c 121 s 23 are each reenacted and amended to read as follows:

14 (1) The department shall not require a certificate of need for
15 the offering of an inpatient tertiary health service by:

16 (a) A health maintenance organization or a combination of health
17 maintenance organizations if (i) the organization or combination of
18 organizations has, in the service area of the organization or the
19 service areas of the organizations in the combination, an enrollment
20 of at least 50,000 individuals, (ii) the facility in which the
21 service will be provided is or will be geographically located so that
22 the service will be reasonably accessible to such enrolled
23 individuals, and (iii) at least 75 percent of the patients who can
24 reasonably be expected to receive the tertiary health service will be
25 individuals enrolled with such organization or organizations in the
26 combination;

27 (b) A health care facility if (i) the facility primarily provides
28 or will provide inpatient health services, (ii) the facility is or
29 will be controlled, directly or indirectly, by a health maintenance
30 organization or a combination of health maintenance organizations
31 which has, in the service area of the organization or service areas
32 of the organizations in the combination, an enrollment of at least
33 50,000 individuals, (iii) the facility is or will be geographically
34 located so that the service will be reasonably accessible to such
35 enrolled individuals, and (iv) at least 75 percent of the patients
36 who can reasonably be expected to receive the tertiary health service
37 will be individuals enrolled with such organization or organizations
38 in the combination; or

1 (c) A health care facility (or portion thereof) if (i) the
2 facility is or will be leased by a health maintenance organization or
3 combination of health maintenance organizations which has, in the
4 service area of the organization or the service areas of the
5 organizations in the combination, an enrollment of at least 50,000
6 individuals and, on the date the application is submitted under
7 subsection (2) of this section, at least 15 years remain in the term
8 of the lease, (ii) the facility is or will be geographically located
9 so that the service will be reasonably accessible to such enrolled
10 individuals, and (iii) at least 75 percent of the patients who can
11 reasonably be expected to receive the tertiary health service will be
12 individuals enrolled with such organization;

13 if, with respect to such offering or obligation by a nursing home,
14 the department has, upon application under subsection (2) of this
15 section, granted an exemption from such requirement to the
16 organization, combination of organizations, or facility.

17 (2) A health maintenance organization, combination of health
18 maintenance organizations, or health care facility shall not be
19 exempt under subsection (1) of this section from obtaining a
20 certificate of need before offering a tertiary health service unless:

21 (a) It has submitted at least 30 days prior to the offering of
22 services reviewable under RCW 70.38.105(4)(d) an application for such
23 exemption; and

24 (b) The application contains such information respecting the
25 organization, combination, or facility and the proposed offering or
26 obligation by a nursing home as the department may require to
27 determine if the organization or combination meets the requirements
28 of subsection (1) of this section or the facility meets or will meet
29 such requirements; and

30 (c) The department approves such application. The department
31 shall approve or disapprove an application for exemption within 30
32 days of receipt of a completed application. In the case of a proposed
33 health care facility (or portion thereof) which has not begun to
34 provide tertiary health services on the date an application is
35 submitted under this subsection with respect to such facility (or
36 portion), the facility (or portion) shall meet the applicable
37 requirements of subsection (1) of this section when the facility
38 first provides such services. The department shall approve an
39 application submitted under this subsection if it determines that the
40 applicable requirements of subsection (1) of this section are met.

1 (3) A health care facility (or any part thereof) with respect to
2 which an exemption was granted under subsection (1) of this section
3 may not be sold or leased and a controlling interest in such facility
4 or in a lease of such facility may not be acquired and a health care
5 facility described in subsection (1)(c) of this section which was
6 granted an exemption under subsection (1) of this section may not be
7 used by any person other than the lessee described in subsection
8 (1)(c) of this section unless:

9 (a) The department issues a certificate of need approving the
10 sale, lease, acquisition, or use; or

11 (b) The department determines, upon application, that (i) the
12 entity to which the facility is proposed to be sold or leased, which
13 intends to acquire the controlling interest, or which intends to use
14 the facility is a health maintenance organization or a combination of
15 health maintenance organizations which meets the requirements of
16 subsection (1)(a)(i) of this section, and (ii) with respect to such
17 facility, meets the requirements of subsection (1)(a)(ii) or (iii) of
18 this section or the requirements of subsection (1)(b)(i) and (ii) of
19 this section.

20 (4) In the case of a health maintenance organization, an
21 ambulatory care facility, or a health care facility, which ambulatory
22 or health care facility is controlled, directly or indirectly, by a
23 health maintenance organization or a combination of health
24 maintenance organizations, the department may under the program apply
25 its certificate of need requirements to the offering of inpatient
26 tertiary health services to the extent that such offering is not
27 exempt under the provisions of this section or RCW 70.38.105(7).

28 (5)(a) The department shall not require a certificate of need for
29 the construction, development, or other establishment of a nursing
30 home, or the addition of beds to an existing nursing home, that is
31 owned and operated by a continuing care retirement community that:

32 (i) Offers services only to contractual members;

33 (ii) Provides its members a contractually guaranteed range of
34 services from independent living through skilled nursing, including
35 some assistance with daily living activities;

36 (iii) Contractually assumes responsibility for the cost of
37 services exceeding the member's financial responsibility under the
38 contract, so that no third party, with the exception of insurance
39 purchased by the retirement community or its members, but including

1 the medicaid program, is liable for costs of care even if the member
2 depletes his or her personal resources;

3 (iv) Has offered continuing care contracts and operated a nursing
4 home continuously since January 1, 1988, or has obtained a
5 certificate of need to establish a nursing home;

6 (v) Maintains a binding agreement with the state assuring that
7 financial liability for services to members, including nursing home
8 services, will not fall upon the state;

9 (vi) Does not operate, and has not undertaken a project that
10 would result in a number of nursing home beds in excess of one for
11 every four living units operated by the continuing care retirement
12 community, exclusive of nursing home beds; and

13 (vii) Has obtained a professional review of pricing and long-term
14 solvency within the prior five years which was fully disclosed to
15 members.

16 (b) A continuing care retirement community shall not be exempt
17 under this subsection from obtaining a certificate of need unless:

18 (i) It has submitted an application for exemption at least 30
19 days prior to commencing construction of, is submitting an
20 application for the licensure of, or is commencing operation of a
21 nursing home, whichever comes first; and

22 (ii) The application documents to the department that the
23 continuing care retirement community qualifies for exemption.

24 (c) The sale, lease, acquisition, or use of part or all of a
25 continuing care retirement community nursing home that qualifies for
26 exemption under this subsection shall require prior certificate of
27 need approval to qualify for licensure as a nursing home unless the
28 department determines such sale, lease, acquisition, or use is by a
29 continuing care retirement community that meets the conditions of (a)
30 of this subsection.

31 (6) A rural hospital, as defined by the department, reducing the
32 number of licensed beds to become a rural primary care hospital under
33 the provisions of Part A Title XVIII of the Social Security Act
34 Section 1820, 42 U.S.C., 1395c et seq. may, within three years of the
35 reduction of beds licensed under chapter 70.41 RCW, increase the
36 number of licensed beds to no more than the previously licensed
37 number without being subject to the provisions of this chapter.

38 (7) A rural health care facility licensed under RCW 70.175.100
39 formerly licensed as a hospital under chapter 70.41 RCW may, within
40 three years of the effective date of the rural health care facility

1 license, apply to the department for a hospital license and not be
2 subject to the requirements of RCW 70.38.105(4)(a) as the
3 construction, development, or other establishment of a new hospital,
4 provided there is no increase in the number of beds previously
5 licensed under chapter 70.41 RCW and there is no redistribution in
6 the number of beds used for acute care or long-term care, the rural
7 health care facility has been in continuous operation, and the rural
8 health care facility has not been purchased or leased.

9 (8) A rural hospital determined to no longer meet critical access
10 hospital status for state law purposes as a result of participation
11 in the Washington rural health access preservation pilot identified
12 by the state office of rural health and formerly licensed as a
13 hospital under chapter 70.41 RCW may apply to the department to renew
14 its hospital license and not be subject to the requirements of RCW
15 70.38.105(4)(a) as the construction, development, or other
16 establishment of a new hospital, provided there is no increase in the
17 number of beds previously licensed under chapter 70.41 RCW. If all or
18 part of a formerly licensed rural hospital is sold, purchased, or
19 leased during the period the rural hospital does not meet critical
20 access hospital status as a result of participation in the Washington
21 rural health access preservation pilot and the new owner or lessor
22 applies to renew the rural hospital's license, then the sale,
23 purchase, or lease of part or all of the rural hospital is subject to
24 the provisions of this chapter.

25 (9)(a) A nursing home that voluntarily reduces the number of its
26 licensed beds to provide assisted living, licensed assisted living
27 facility care, adult day care, adult day health, respite care,
28 hospice, outpatient therapy services, congregate meals, home health,
29 or senior wellness clinic, or to reduce to one or two the number of
30 beds per room or to otherwise enhance the quality of life for
31 residents in the nursing home, may convert the original facility or
32 portion of the facility back, and thereby increase the number of
33 nursing home beds to no more than the previously licensed number of
34 nursing home beds without obtaining a certificate of need under this
35 chapter, provided the facility has been in continuous operation and
36 has not been purchased or leased. Any conversion to the original
37 licensed bed capacity, or to any portion thereof, shall comply with
38 the same life and safety code requirements as existed at the time the
39 nursing home voluntarily reduced its licensed beds; unless waivers
40 from such requirements were issued, in which case the converted beds

1 shall reflect the conditions or standards that then existed pursuant
2 to the approved waivers.

3 (b) To convert beds back to nursing home beds under this
4 subsection, the nursing home must:

5 (i) Give notice of its intent to preserve conversion options to
6 the department of health no later than 30 days after the effective
7 date of the license reduction; and

8 (ii) Give notice to the department of health and to the
9 department of social and health services of the intent to convert
10 beds back. If construction is required for the conversion of beds
11 back, the notice of intent to convert beds back must be given, at a
12 minimum, one year prior to the effective date of license modification
13 reflecting the restored beds; otherwise, the notice must be given a
14 minimum of 90 days prior to the effective date of license
15 modification reflecting the restored beds. Prior to any license
16 modification to convert beds back to nursing home beds under this
17 section, the licensee must demonstrate that the nursing home meets
18 the certificate of need exemption requirements of this section.

19 The term "construction," as used in (b)(ii) of this subsection,
20 is limited to those projects that are expected to equal or exceed the
21 expenditure minimum amount, as determined under this chapter.

22 (c) Conversion of beds back under this subsection must be
23 completed no later than four years after the effective date of the
24 license reduction. However, for good cause shown, the four-year
25 period for conversion may be extended by the department of health for
26 one additional four-year period.

27 (d) Nursing home beds that have been voluntarily reduced under
28 this section shall be counted as available nursing home beds for the
29 purpose of evaluating need under RCW 70.38.115(2) (a) and (k) so long
30 as the facility retains the ability to convert them back to nursing
31 home use under the terms of this section.

32 (e) When a building owner has secured an interest in the nursing
33 home beds, which are intended to be voluntarily reduced by the
34 licensee under (a) of this subsection, the applicant shall provide
35 the department with a written statement indicating the building
36 owner's approval of the bed reduction.

37 (10)(a) The department shall not require a certificate of need
38 for a hospice agency if:

39 (i) The hospice agency is designed to serve the unique religious
40 or cultural needs of a religious group or an ethnic minority and

1 commits to furnishing hospice services in a manner specifically aimed
2 at meeting the unique religious or cultural needs of the religious
3 group or ethnic minority;

4 (ii) The hospice agency is operated by an organization that:

5 (A) Operates a facility, or group of facilities, that offers a
6 comprehensive continuum of long-term care services, including, at a
7 minimum, a licensed, medicare-certified nursing home, assisted
8 living, independent living, day health, and various community-based
9 support services, designed to meet the unique social, cultural, and
10 religious needs of a specific cultural and ethnic minority group;

11 (B) Has operated the facility or group of facilities for at least
12 10 continuous years prior to the establishment of the hospice agency;

13 (iii) The hospice agency commits to coordinating with existing
14 hospice programs in its community when appropriate;

15 (iv) The hospice agency has a census of no more than 40 patients;

16 (v) The hospice agency commits to obtaining and maintaining
17 medicare certification;

18 (vi) The hospice agency only serves patients located in the same
19 county as the majority of the long-term care services offered by the
20 organization that operates the agency; and

21 (vii) The hospice agency is not sold or transferred to another
22 agency.

23 (b) The department shall include the patient census for an agency
24 exempted under this subsection (10) in its calculations for future
25 certificate of need applications.

26 (11) To alleviate the need to board psychiatric patients in
27 emergency departments and increase capacity of hospitals to serve
28 individuals on 90-day or 180-day commitment orders, for the period of
29 time from May 5, 2017, through June 30, 2028:

30 (a) The department shall suspend the certificate of need
31 requirement for a hospital licensed under chapter 70.41 RCW that
32 changes the use of licensed beds to increase the number of beds to
33 provide psychiatric services, including involuntary treatment
34 services. A certificate of need exemption under this subsection
35 (11) (a) shall be valid for two years.

36 (b) The department may not require a certificate of need for:

37 (i) The addition of beds as described in RCW 70.38.260 (2) and
38 (3); or

39 (ii) The construction, development, or establishment of a
40 behavioral health hospital licensed as an establishment under chapter

1 71.12 RCW that will have no more than 16 beds and provide treatment
2 to adults on 90 or 180-day involuntary commitment orders, as
3 described in RCW 70.38.260(4).

4 (12)(a) An ambulatory surgical facility is exempt from all
5 certificate of need requirements if the facility:

6 (i) Is an individual or group practice and, if the facility is a
7 group practice, the privilege of using the facility is not extended
8 to physicians outside the group practice;

9 (ii) Operated or received approval to operate, prior to January
10 19, 2018; and

11 (iii) Was exempt from certificate of need requirements prior to
12 January 19, 2018, because the facility either:

13 (A) Was determined to be exempt from certificate of need
14 requirements pursuant to a determination of reviewability issued by
15 the department; or

16 (B) Was a single-specialty endoscopy center in existence prior to
17 January 14, 2003, when the department determined that endoscopy
18 procedures were surgeries for purposes of certificate of need.

19 (b) The exemption under this subsection:

20 (i) Applies regardless of future changes of ownership, corporate
21 structure, or affiliations of the individual or group practice as
22 long as the use of the facility remains limited to physicians in the
23 group practice; and

24 (ii) Does not apply to changes in services, specialties, or
25 number of operating rooms.

26 (13) A rural health clinic providing health services in a home
27 health shortage area as declared by the department pursuant to 42
28 C.F.R. Sec. 405.2416 is not subject to certificate of need review
29 under this chapter.

30 (14) Hospital at-home services, as defined in RCW 70.41.550, are
31 not subject to certificate of need review under this chapter.

32 (15) Elective percutaneous coronary interventions provided at
33 hospitals accredited as a comprehensive heart attack center or
34 primary heart attack center or categorized as a level one or level
35 two cardiac center in the Washington state emergency cardiac and
36 stroke system, shall not require a certificate of need for these
37 services.

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