

**RCW 70.38.260 Certain hospitals not subject to certificate of need requirements for the addition of the number of new psychiatric beds. (Expires June 30, 2025.)** (1) For a grant awarded during fiscal years 2018 and 2019 by the department of commerce under this section, hospitals licensed under chapter 70.41 RCW and psychiatric hospitals licensed as establishments under chapter 71.12 RCW are not subject to certificate of need requirements for the addition of the number of new psychiatric beds indicated in the grant. The department of commerce may not make a prior approval of a certificate of need application a condition for a grant application under this section. The period during which an approved hospital or psychiatric hospital project qualifies for a certificate of need exemption under this section is two years from the date of the grant award.

(2)(a) Until June 30, 2023, a hospital licensed under chapter 70.41 RCW is exempt from certificate of need requirements for the addition of new psychiatric beds.

(b) A hospital that adds new psychiatric beds under this subsection (2) must:

(i) Notify the department of the addition of new psychiatric beds. The department shall provide the hospital with a notice of exemption within thirty days; and

(ii) Commence the project within two years of the date of receipt of the notice of exemption.

(c) Beds granted an exemption under RCW 70.38.111(11)(b) must remain psychiatric beds unless a certificate of need is granted to change their use or the hospital voluntarily reduces its licensed capacity.

(3)(a) Until June 30, 2023, a psychiatric hospital licensed as an establishment under chapter 71.12 RCW is exempt from certificate of need requirements for the one-time addition of up to 30 new psychiatric beds devoted solely for 90-day and 180-day civil commitment services and for the one-time addition of up to 30 new voluntary psychiatric beds or involuntary psychiatric beds for patients on a 120 hour detention or 14-day civil commitment order, if the hospital makes a commitment to maintain a payer mix of at least fifty percent medicare and medicaid based on a calculation using patient days for a period of five consecutive years after the beds are made available for use by patients, if it demonstrates to the satisfaction of the department:

(i) That its most recent two years of publicly available fiscal year-end report data as required under RCW \*70.170.100 and 43.70.050 reported to the department by the psychiatric hospital, show a payer mix of a minimum of fifty percent medicare and medicaid based on a calculation using patient days; and

(ii) A commitment to maintaining the payer mix in (a) of this subsection for a period of five consecutive years after the beds are made available for use by patients.

(b) A psychiatric hospital that adds new psychiatric beds under this subsection (3) must:

(i) Notify the department of the addition of new psychiatric beds. The department shall provide the psychiatric hospital with a notice of exemption within thirty days; and

(ii) Commence the project within two years of the date of receipt of the notice of exemption.

(c) Beds granted an exemption under RCW 70.38.111(11)(b) must remain the types of psychiatric beds indicated to the department in the original exemption application unless a certificate of need is

granted to change their use or the psychiatric hospital voluntarily reduces its licensed capacity.

(4) (a) Until June 30, 2023, an entity seeking to construct, develop, or establish a psychiatric hospital licensed as an establishment under chapter 71.12 RCW is exempt from certificate of need requirements if the proposed psychiatric hospital will have no more than sixteen beds and dedicate a portion of the beds to providing treatment to adults on ninety or one hundred eighty-day involuntary commitment orders. The psychiatric hospital may also provide treatment to adults on a 120 hour detention or 14-day involuntary commitment order.

(b) An entity that seeks to construct, develop, or establish a psychiatric hospital under this subsection (4) must:

(i) Notify the department of the addition of construction, development, or establishment. The department shall provide the entity with a notice of exemption within thirty days; and

(ii) Commence the project within two years of the date of receipt of the notice of exemption.

(c) Entities granted an exemption under RCW 70.38.111(11)(b)(ii) may not exceed sixteen beds unless a certificate of need is granted to increase the psychiatric hospital's capacity.

(5) This section expires June 30, 2025. [2021 c 277 § 2; 2019 c 324 § 9; 2017 c 199 § 2; 2015 3rd sp.s. c 22 § 2.]

**\*Reviser's note:** The reference to RCW 70.170.100 appears to be erroneous. RCW 70.170.100 was repealed by 1995 c 265 § 27 and by 1995 c 267 § 12.

**Effective date—2021 c 277:** See note following RCW 70.38.111.

**Findings—Intent—2019 c 324:** See note following RCW 71.24.648.

**Mental health drop-in center services pilot program—2019 c 324:** See note following RCW 71.24.649.

**Report—2019 c 324:** See note following RCW 70.38.111.

**Recommendations—Residential intensive behavioral health and developmental disability services—2019 c 324:** See note following RCW 74.39A.030.

**Effective date—2017 c 199:** See note following RCW 70.38.111.

**Intent—2015 3rd sp.s. c 22:** "To accommodate the urgent need for inpatient psychiatric services and to facilitate state compliance with the Washington state supreme court decision, In re the Detention of D.W., No. 90110-4, August 7, 2014, which prohibits the practice of psychiatric boarding, the legislature intends to exempt certain hospital mental health projects provided grant funding by the department of commerce from certificate of need requirements." [2015 3rd sp.s. c 22 § 1.]

**Effective date—2015 3rd sp.s. c 22:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions,

and takes effect immediately [July 6, 2015]." [2015 3rd sp.s. c 22 § 4.]