

HOUSE BILL REPORT

EHB 1416

As Passed House:

March 13, 1995

Title: An act relating to certificate of need.

Brief Description: Modifying certificate of need provisions.

Sponsors: Representatives Skinner, Foreman, Schoesler and Huff.

Brief History:

Committee Activity:

Health Care: 2/2/95, 2/23/95 [DP];

Appropriations: 3/4/95 [DP].

Floor Activity:

Passed House: 3/13/95, 94-1.

HOUSE COMMITTEE ON HEALTH CARE

Majority Report: Do pass. Signed by 13 members: Representatives Dyer, Chairman; Backlund, Vice Chairman; Hymes, Vice Chairman; Dellwo, Ranking Minority Member; Cody, Assistant Ranking Minority Member; Campbell; Casada; Conway; Crouse; Kessler; Morris; Sherstad and Skinner.

Staff: John Welsh (786-7133).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 22 members: Representatives Silver, Chairman; Clements, Vice Chairman; Huff, Vice Chairman; Pelesky, Vice Chairman; Beeksma; Brumsickle; Cooke; Crouse; G. Fisher; Foreman; Grant; Hargrove; Hickel; Lambert; Lisk; McMorris; Poulsen; Reams; Sehlin; Sheahan; Talcott and Wolfe.

Minority Report: Do not pass. Signed by 7 members: Representatives Sommers, Ranking Minority Member; Valle, Assistant Ranking Minority Member; Carlson; Chappell; Jacobsen; Rust and Thibaudeau.

Staff: Jim Lux (786-7152).

Background: The Certificate of Need program is a cost containment program in the Department of Health designed to ensure the construction and development of only those new health care facilities and services which promote access to high quality, needed care at a reasonable cost.

A Certificate of Need is required of a nursing home in order to increase the number of nursing home beds in the facility. However, the law provides that a nursing home may "bank" or hold in reserve any current beds in order to use the space for other specified purposes. These purposes would allow the nursing home to provide assisted living arrangements, licensed boarding home care, adult day care, adult day health, respite care, hospice, outpatient therapy services, congregate meals, home health, senior wellness clinics, or to reduce the number of beds per room. If the nursing home later wishes to reconvert the facility to its original purpose with the beds in the "bank" brought back on-line, no Certificate of Need is required.

A health facility, as an interested party, has an opportunity to provide testimony and argument at any hearing on a Certificate of Need application affecting the same service area. But there is no provision in the law for allowing an interested party to offer this testimony at any departmental adjudicative proceeding on the application on appeal or any settlement.

Current law does not accord a nursing home building owner standing with regard to any security interest he or has in nursing home beds.

A Certificate of Need is required to replace nursing home bed capacity for a determination of whether there is a need. However, current law waives the determination of need for an ongoing licensee desiring to replace existing nursing home beds in the same planning area.

Summary of Bill: A nursing home may "bank" or hold in reserve its nursing home beds for any purpose that enhances the quality of life for residents, in addition to those specified by law, with the requirement of a Certificate of Need..

A health facility or health maintenance organization that provides services similar to the services of an applicant for a Certificate of Need in the same service area, and who has testified as an interested party and submitted evidence at a public hearing on the application, may also present testimony and argument at any adjudicative proceeding of the application on appeal. The interested party must first have requested in writing to be informed of the department's decision. The interested party must also be afforded an opportunity to comment in advance of any proposed settlement.

When a building owner has secured an interest in nursing home beds, a licensee, if different that the building owner, must obtain and submit to the department written approval from the building owner to reduce the number of beds in the facility. A

building owner may complete a replacement project in the event that a licensee is unable to complete the project.

A licensee may replace existing beds without a Certificate of Need if the licensee has operated the beds for at least one year. If a nursing home closes, the re-use of existing beds will require a Certificate of Need, but the determination of need will be deemed met if the applicant is the licensee.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: (Health Care) The bill increases the flexibility of nursing homes to accommodate the changing needs of patients. It also enhances the credit worthiness of nursing homes to secure capital financing for renovations and replacements.

(Appropriations) The ability to have nursing home beds come back on-line without Certificate of Need review protects the owner or holder of a security interest from a licensee's abdicating his or her financial responsibility through death or otherwise. The owner or bank does not want to be left with a single use facility. The flexibility is necessary to ensure secure financing.

Testimony Against: (Health Care) A nursing home building owner, mortgagor or anyone else who has by contract obtained rights to nursing home beds, may build a new facility without showing that the beds are needed. More beds will consequently be brought onto line regardless of need. The state's Medical Assistance program ends up paying for the care of 70 percent of patients in these beds as a consequence, and this will result in substantially new costs.

(Appropriations) The Department of Social and Health Services must be able to control the number of nursing home beds in order to control Medicaid expenditures. The Certificate of Need review is the only way to do that. The biggest concern is that oversupply will be more costly and the policy direction has been away from nursing home beds, to cheaper alternatives of care for the elderly.

Testified: (Health Care) Jerry Reilly, Washington Health Care Association (pro); and Peggy Brown, Aging & Adult Services, Department of Social and Health Services (con).

(Appropriations) Jerry Reilly, Washington Health Care Association (pro).