

SB 5423 - S AMD 108

By Senators Pflug and Keiser

ADOPTED 3/09/2009

1 Strike everything after the enacting clause and insert the
2 following:

3
4 **"Sec. 1.** RCW 70.38.105 and 2004 c 261 s 6 are each amended to
5 read as follows:

6 (1) The department is authorized and directed to implement the
7 certificate of need program in this state pursuant to the provisions
8 of this chapter.

9 (2) There shall be a state certificate of need program which is
10 administered consistent with the requirements of federal law as
11 necessary to the receipt of federal funds by the state.

12 (3) No person shall engage in any undertaking which is subject to
13 certificate of need review under subsection (4) of this section
14 without first having received from the department either a certificate
15 of need or an exception granted in accordance with this chapter.

16 (4) The following shall be subject to certificate of need review
17 under this chapter:

18 (a) The construction, development, or other establishment of a new
19 health care facility;

20 (b) The sale, purchase, or lease of part or all of any existing
21 hospital as defined in RCW 70.38.025;

22 (c) Any capital expenditure for the construction, renovation, or
23 alteration of a nursing home which substantially changes the services
24 of the facility after January 1, 1981, provided that the substantial
25 changes in services are specified by the department in rule;

26 (d) Any capital expenditure for the construction, renovation, or
27 alteration of a nursing home which exceeds the expenditure minimum as

1 defined by RCW 70.38.025. However, a capital expenditure which is not
2 subject to certificate of need review under (a), (b), (c), or (e) of
3 this subsection and which is solely for any one or more of the
4 following is not subject to certificate of need review:

5 (i) Communications and parking facilities;

6 (ii) Mechanical, electrical, ventilation, heating, and air
7 conditioning systems;

8 (iii) Energy conservation systems;

9 (iv) Repairs to, or the correction of, deficiencies in existing
10 physical plant facilities which are necessary to maintain state
11 licensure, however, other additional repairs, remodeling, or
12 replacement projects that are not related to one or more deficiency
13 citations and are not necessary to maintain state licensure are not
14 exempt from certificate of need review except as otherwise permitted
15 by (d)(vi) of this subsection or RCW 70.38.115(13);

16 (v) Acquisition of equipment, including data processing equipment,
17 which is not or will not be used in the direct provision of health
18 services;

19 (vi) Construction or renovation at an existing nursing home which
20 involves physical plant facilities, including administrative, dining
21 areas, kitchen, laundry, therapy areas, and support facilities, by an
22 existing licensee who has operated the beds for at least one year;

23 (vii) Acquisition of land; and

24 (viii) Refinancing of existing debt;

25 (e) A change in bed capacity of a health care facility which
26 increases the total number of licensed beds or redistributes beds
27 among acute care, nursing home care, and boarding home care if the bed
28 redistribution is to be effective for a period in excess of six
29 months, or a change in bed capacity of a rural health care facility
30 licensed under RCW 70.175.100 that increases the total number of
31 nursing home beds or redistributes beds from acute care or boarding
32 home care to nursing home care if the bed redistribution is to be
33 effective for a period in excess of six months. A health care
34 facility certified as a critical access hospital under 42 U.S.C.

1 1395i-4 may increase its total number of licensed beds to the total
2 number of beds permitted under 42 U.S.C. 1395i-4 for acute care and
3 may redistribute beds permitted under 42 U.S.C. 1395i-4 among acute
4 care and nursing home care without being subject to certificate of
5 need review. If there is a nursing home licensed under chapter 18.51
6 RCW within twenty-seven miles of the critical access hospital, the
7 critical access hospital is subject to certificate of need review
8 except for:

9 (i) Critical access hospitals which had designated beds to provide
10 nursing home care, in excess of five swing beds, prior to December 31,
11 2003; (~~or~~)

12 (ii) Up to five swing beds; or

13 (iii) Up to twenty-five swing beds for critical access hospitals
14 which do not have a nursing home licensed under chapter 18.51 RCW
15 within the same city or town limits. No more than one-half of the
16 additional beds designated for swing bed services under this
17 subsection (4)(e)(iii) may be so designated before July 1, 2009, with
18 the balance designated no sooner than July 1, 2010.

19 Critical access hospital beds not subject to certificate of need
20 review under this subsection (4)(e) will not be counted as either
21 acute care or nursing home care for certificate of need review
22 purposes. If a health care facility ceases to be certified as a
23 critical access hospital under 42 U.S.C. 1395i-4, the hospital may
24 revert back to the type and number of licensed hospital beds as it had
25 when it requested critical access hospital designation;

26 (f) Any new tertiary health services which are offered in or
27 through a health care facility or rural health care facility licensed
28 under RCW 70.175.100, and which were not offered on a regular basis
29 by, in, or through such health care facility or rural health care
30 facility within the twelve-month period prior to the time such
31 services would be offered;

32 (g) Any expenditure for the construction, renovation, or
33 alteration of a nursing home or change in nursing home services in
34 excess of the expenditure minimum made in preparation for any

1 undertaking under subsection (4) of this section and any arrangement
2 or commitment made for financing such undertaking. Expenditures of
3 preparation shall include expenditures for architectural designs,
4 plans, working drawings, and specifications. The department may issue
5 certificates of need permitting predevelopment expenditures, only,
6 without authorizing any subsequent undertaking with respect to which
7 such predevelopment expenditures are made; and

8 (h) Any increase in the number of dialysis stations in a kidney
9 disease center.

10 (5) The department is authorized to charge fees for the review of
11 certificate of need applications and requests for exemptions from
12 certificate of need review. The fees shall be sufficient to cover the
13 full cost of review and exemption, which may include the development
14 of standards, criteria, and policies.

15 (6) No person may divide a project in order to avoid review
16 requirements under any of the thresholds specified in this section."

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EFFECT: Creates a two-year phase in of the additional swing bed
capacity.

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