

CERTIFICATION OF ENROLLMENT

SECOND SUBSTITUTE HOUSE BILL 1021

Chapter 242, Laws of 2009

61st Legislature
2009 Regular Session

HOSPITALS--SURVEYS, AUDITS, INSPECTIONS--CERTIFICATES OF NEED

EFFECTIVE DATE: 07/26/09

Passed by the House April 18, 2009
Yeas 97 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 14, 2009
Yeas 48 Nays 0

BRAD OWEN

President of the Senate

Approved April 28, 2009, 3:39 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 1021** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

April 29, 2009

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 1021

AS AMENDED BY THE SENATE

Passed Legislature - 2009 Regular Session

State of Washington

61st Legislature

2009 Regular Session

By House Health & Human Services Appropriations (originally sponsored by Representatives Campbell, Morrell, and Moeller)

READ FIRST TIME 03/02/09.

1 AN ACT Relating to prior notice of hospital surveys and audits; and
2 amending RCW 70.41.120, 70.41.122, and 70.38.105.

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

4 **Sec. 1.** RCW 70.41.120 and 2005 c 447 s 1 are each amended to read
5 as follows:

6 (1) The department shall make or cause to be made an unannounced
7 inspection of all hospitals on average at least every eighteen months.
8 Every inspection of a hospital may include an inspection of every part
9 of the premises. The department may make an examination of all phases
10 of the hospital operation necessary to determine compliance with the
11 law and the standards, rules and regulations adopted thereunder.

12 (2) The department shall not issue its final report regarding an
13 unannounced inspection by the department until: (a) The hospital is
14 given at least two weeks following the inspection to provide any
15 information or documentation requested by the department during the
16 unannounced inspection that was not available at the time of the
17 request; and (b) at least one person from the department conducting the
18 inspection meets personally with the chief administrator or executive

1 officer of the hospital following the inspection or the chief
2 administrator or executive officer declines such a meeting.

3 (3) Any licensee or applicant desiring to make alterations or
4 additions to its facilities or to construct new facilities shall,
5 before commencing such alteration, addition or new construction, comply
6 with the regulations prescribed by the department.

7 (4) No hospital licensed pursuant to the provisions of this chapter
8 shall be required to be inspected or licensed under other state laws or
9 rules and regulations promulgated thereunder, or local ordinances,
10 relative to hotels, restaurants, lodging houses, boarding houses,
11 places of refreshment, nursing homes, maternity homes, or psychiatric
12 hospitals.

13 (5) To avoid unnecessary duplication in inspections, the department
14 shall coordinate with the department of social and health services, the
15 office of the state fire marshal, and local agencies when inspecting
16 facilities over which each agency has jurisdiction, the facilities
17 including but not necessarily being limited to hospitals with both
18 acute care and skilled nursing or psychiatric nursing functions. The
19 department shall notify the office of the state fire marshal and the
20 relevant local agency at least four weeks prior to any inspection
21 conducted under this section and invite their attendance at the
22 inspection, and shall provide a copy of its inspection report to each
23 agency upon completion.

24 **Sec. 2.** RCW 70.41.122 and 2005 c 447 s 2 are each amended to read
25 as follows:

26 Surveys conducted on hospitals by the joint commission on the
27 accreditation of health care organizations ~~((of))~~, the American
28 osteopathic association ~~((on hospitals accredited by those bodies))~~, or
29 Det Norske Veritas shall be deemed equivalent to a department survey
30 for purposes of meeting the requirements for the survey specified in
31 RCW 70.41.120 if the department determines that the applicable survey
32 standards ~~((of the joint commission on the accreditation of health care~~
33 ~~organizations — or — the — American — osteopathic — association))~~ are
34 substantially equivalent to its own.

35 (1) Hospitals so surveyed shall provide to the department within
36 thirty days of learning the result of a survey documentary evidence

1 that the hospital has been certified as a result of a survey and the
2 date of the survey.

3 (2) Hospitals shall make available to department surveyors the
4 written reports of such surveys during department surveys, upon
5 request.

6 **Sec. 3.** RCW 70.38.105 and 2009 c ... (ESB 5423) s 1 are each
7 amended to read as follows:

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

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

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

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

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

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

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

28 (d) Any capital expenditure for the construction, renovation, or
29 alteration of a nursing home which exceeds the expenditure minimum as
30 defined by RCW 70.38.025. However, a capital expenditure which is not
31 subject to certificate of need review under (a), (b), (c), or (e) of
32 this subsection and which is solely for any one or more of the
33 following is not subject to certificate of need review:

34 (i) Communications and parking facilities;

35 (ii) Mechanical, electrical, ventilation, heating, and air
36 conditioning systems;

37 (iii) Energy conservation systems;

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

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

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

15 (vii) Acquisition of land; and

16 (viii) Refinancing of existing debt;

17 (e) A change in bed capacity of a health care facility which
18 increases the total number of licensed beds or redistributes beds among
19 acute care, nursing home care, and boarding home care if the bed
20 redistribution is to be effective for a period in excess of six months,
21 or a change in bed capacity of a rural health care facility licensed
22 under RCW 70.175.100 that increases the total number of nursing home
23 beds or redistributes beds from acute care or boarding home care to
24 nursing home care if the bed redistribution is to be effective for a
25 period in excess of six months. A health care facility certified as a
26 critical access hospital under 42 U.S.C. 1395i-4 may increase its total
27 number of licensed beds to the total number of beds permitted under 42
28 U.S.C. 1395i-4 for acute care and may redistribute beds permitted under
29 42 U.S.C. 1395i-4 among acute care and nursing home care without being
30 subject to certificate of need review. If there is a nursing home
31 licensed under chapter 18.51 RCW within twenty-seven miles of the
32 critical access hospital, the critical access hospital is subject to
33 certificate of need review except for:

34 (i) Critical access hospitals which had designated beds to provide
35 nursing home care, in excess of five swing beds, prior to December 31,
36 2003;

37 (ii) Up to five swing beds; or

1 (iii) Up to twenty-five swing beds for critical access hospitals
2 which do not have a nursing home licensed under chapter 18.51 RCW
3 within the same city or town limits. (~~No more than~~) Up to one-half
4 of the additional beds designated for swing bed services under this
5 subsection (4)(e)(iii) may be so designated before July 1, (~~2009~~)
6 2010, with the balance designated (~~no sooner than~~) on or after July
7 1, 2010.

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

15 (f) Any new tertiary health services which are offered in or
16 through a health care facility or rural health care facility licensed
17 under RCW 70.175.100, and which were not offered on a regular basis by,
18 in, or through such health care facility or rural health care facility
19 within the twelve-month period prior to the time such services would be
20 offered;

21 (g) Any expenditure for the construction, renovation, or alteration
22 of a nursing home or change in nursing home services in excess of the
23 expenditure minimum made in preparation for any undertaking under
24 subsection (4) of this section and any arrangement or commitment made
25 for financing such undertaking. Expenditures of preparation shall
26 include expenditures for architectural designs, plans, working
27 drawings, and specifications. The department may issue certificates of
28 need permitting predevelopment expenditures, only, without authorizing
29 any subsequent undertaking with respect to which such predevelopment
30 expenditures are made; and

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

33 (5) The department is authorized to charge fees for the review of
34 certificate of need applications and requests for exemptions from
35 certificate of need review. The fees shall be sufficient to cover the
36 full cost of review and exemption, which may include the development of
37 standards, criteria, and policies.

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

Passed by the House April 18, 2009.

Passed by the Senate April 14, 2009.

Approved by the Governor April 28, 2009.

Filed in Office of Secretary of State April 29, 2009.