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HOUSE BILL 2100

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State of Washington                      52nd Legislature                      1991 Regular Session

By Representatives Braddock, Locke, Wineberry and Wang.

Read first time February 22, 1991. Referred to Committee on Health Care.

1            AN ACT Relating to nursing homes for underserved ethnic minorities;  
2 and amending RCW 70.38.111.

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

4            **Sec. 1.** RCW 70.38.111 and 1989 1st ex.s. c 9 s 604 are each  
5 amended to read as follows:

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

8            (a) A health maintenance organization or a combination of health  
9 maintenance organizations if (i) the organization or combination of  
10 organizations has, in the service area of the organization or the  
11 service areas of the organizations in the combination, an enrollment of  
12 at least fifty thousand individuals, (ii) the facility in which the  
13 service will be provided is or will be geographically located so that  
14 the service will be reasonably accessible to such enrolled individuals,  
15 and (iii) at least seventy-five percent of the patients who can

1 reasonably be expected to receive the tertiary health service will be  
2 individuals enrolled with such organization or organizations in the  
3 combination;

4 (b) A health care facility if (i) the facility primarily provides  
5 or will provide inpatient health services, (ii) the facility is or will  
6 be controlled, directly or indirectly, by a health maintenance  
7 organization or a combination of health maintenance organizations which  
8 has, in the service area of the organization or service areas of the  
9 organizations in the combination, an enrollment of at least fifty  
10 thousand individuals, (iii) the facility is or will be geographically  
11 located so that the service will be reasonably accessible to such  
12 enrolled individuals, and (iv) at least seventy-five percent of the  
13 patients who can reasonably be expected to receive the tertiary health  
14 service will be individuals enrolled with such organization or  
15 organizations in the combination; or

16 (c) A health care facility (or portion thereof) if (i) the facility  
17 is or will be leased by a health maintenance organization or  
18 combination of health maintenance organizations which has, in the  
19 service area of the organization or the service areas of the  
20 organizations in the combination, an enrollment of at least fifty  
21 thousand individuals and, on the date the application is submitted  
22 under subsection (2) of this section, at least fifteen years remain in  
23 the term of the lease, (ii) the facility is or will be geographically  
24 located so that the service will be reasonably accessible to such  
25 enrolled individuals, and (iii) at least seventy-five percent of the  
26 patients who can reasonably be expected to receive the tertiary health  
27 service will be individuals enrolled with such organization;

28 if, with respect to such offering or obligation by a nursing home, the  
29 department has, upon application under subsection (2) of this section,

1 granted an exemption from such requirement to the organization,  
2 combination of organizations, or facility; or

3 (d) A nursing home facility specifically designed, managed, and  
4 administered to serve the special cultural, language, and dietary needs  
5 and circumstances of an ethnic minority if the facility is operated by  
6 a nonprofit corporation and at least fifty percent of the members of  
7 the board of directors of the corporation are members of the ethnic  
8 minority.

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

13 (a) It has submitted at least thirty days prior to the offering of  
14 services reviewable under RCW 70.38.105(4)(d) an application for such  
15 exemption; and

16 (b) The application contains such information respecting the  
17 organization, combination, or facility and the proposed offering or  
18 obligation by a nursing home as the department may require to determine  
19 if the organization or combination meets the requirements of subsection  
20 (1) of this section or the facility meets or will meet such  
21 requirements; and

22 (c) The department approves such application. The department shall  
23 approve or disapprove an application for exemption within thirty days  
24 of receipt of a completed application. In the case of a proposed  
25 health care facility (or portion thereof) which has not begun to  
26 provide tertiary health services on the date an application is  
27 submitted under this subsection with respect to such facility (or  
28 portion), the facility (or portion) shall meet the applicable  
29 requirements of subsection (1) of this section when the facility first  
30 provides such services. The department shall approve an application

1 submitted under this subsection if it determines that the applicable  
2 requirements of subsection (1) of this section are met.

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

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

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

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

28 (5) A certificate of need is not required for a nursing home  
29 facility specifically designed, managed, and administered to serve the  
30 specific cultural, language, and dietary needs of an ethnic minority if

1 the facility is operated by a nonprofit corporation, not less than  
2 fifty percent of the board of directors are members of the ethnic  
3 population the facility is designed to serve, and not less than  
4 seventy-five percent of the residents in the nursing home are members  
5 of the ethnic population the facility is designed to serve.

6 (6) A nursing home facility is not exempt under subsection (5) of  
7 this section unless:

8 (a) It has submitted an application for the exemption at least  
9 thirty days prior to commencement of construction;

10 (b) The application contains such information as the department may  
11 require to determine if the facility meets the requirements of  
12 subsection (5) of this section; and

13 (c) The department approves the application.

14 (7) A nursing home facility, or any part thereof, with respect to  
15 which an exemption was granted under subsection (5) of this section may  
16 not be sold or leased, a controlling interest in the facility may not  
17 be acquired, and the facility may not be used by any person other than  
18 the corporation described in subsection (5) of this section unless:

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

21 (b) The department determines, upon application, that the entity  
22 (i) to which the facility is proposed to be sold or leased, (ii) which  
23 intends to acquire the controlling interest, or (iii) which intends to  
24 use the facility, is a nursing home facility that meets the  
25 requirements of subsection (5) of this section.