

# HOUSE BILL REPORT

## HB 1416

---

---

### As Reported By House Committee On:

Health Care

**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].

---

### 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).

**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.

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 requirement of a Certificate 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.

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.

A Certificate of Need is not required to replace nursing home bed capacity either by an existing licensee or by anyone who has secured contractual rights to the beds from the licensee.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** 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.

**Testimony Against:** 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.

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