HOUSE BILL REPORT
SHB 2669

As Passed House:
February 13, 2006

Title: An act relating to licensing specialty hospitals.

Brief Description: Licensing specialty hospitals.

Sponsors: By House Committee on Health Care (originally sponsored by Representatives Cody, Green, Morrell, Clibborn, Campbell, Moeller, Priest and Lantz).

Brief History:
Committee Activity:
Health Care: 1/24/06, 1/31/06 [DPS].
Floor Activity:
Passed House: 2/13/06, 65-31.

Brief Summary of Substitute Bill

- Establishes licensing requirements for specialty hospitals related to services for low income patients, emergency services, and financial disclosure.

HOUSE COMMITTEE ON HEALTH CARE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Cody, Chair; Campbell, Vice Chair; Morrell, Vice Chair; Appleton, Clibborn, Green, Lantz, Moeller and Schual-Berke.

Minority Report: Do not pass. Signed by 5 members: Representatives Hinkle, Ranking Minority Member; Curtis, Assistant Ranking Minority Member; Alexander, Bailey and Condotta.

Staff: Chris Blake (786-7392).

Background:

The federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) prohibited physicians from referring patients to certain specialty hospitals in which the physicians have ownership or investment interests. The MMA also prohibited these hospitals from billing Medicare or any other entity for services provided as a result of a prohibited referral. These prohibitions were effective from December 2003 until June 2005. This moratorium applied to new hospitals primarily or exclusively engaged in the care and

treatment of patients with cardiac or orthopedic conditions and patients receiving surgical procedures.

During the moratorium, the Federal Centers for Medicare and Medicaid Services (CMS), the General Accounting Office, and the Medicare Payment Advisory Commission (MedPAC) conducted studies of specialty hospitals to determine their impact on general hospitals and the Medicare program. MedPAC released its report to Congress in March 2005 and made several recommendations that would require Congress to take legislative action. Among these, the report recommended that Congress extend the moratorium on specialty hospitals through January 2007. The CMS issued its report in May 2005 in which it decided to administratively continue the moratorium until February 15, 2006. During that time CMS has been reviewing its payment rates and procedures for approving hospitals to participate in Medicare.

In 2005, chapter 39 (SSB 5178), Laws of 2005 was enacted which prohibits the Department of Health (Department) from issuing a license from January 1, 2005, until July 1, 2006, to a specialty hospital in which a physician has an ownership or investment interest. Absent this moratorium, there are no restrictions specific to specialty hospitals under state law, although the establishment and operation of such a hospital is subject to the same Department licensing requirements and regulatory oversight as hospitals in general.

Summary of Substitute Bill:

"Specialty hospitals" are defined as any hospital that is primarily or exclusively engaged in the care and treatment of: (1) patients with a cardiac condition; (2) patients with an orthopedic condition; (3) patients receiving a surgical procedure; and (4) any other specialized category of services that the Secretary of Health and Human Services designates as a specialty hospital.

To receive a license to operate as a hospital, a specialty hospital must be significantly engaged in providing inpatient care, comply with the general licensing standards for hospitals, and provide appropriate discharge planning. In addition, a specialty hospital must:

- provide at least the same percentage of services to Medicare and Medicaid patients as the general hospital with the lowest percentage of such services in the same health service area;
- provide at least the same percentage of charity care as the general hospital with the lowest percentage of charity care in the same health service area;
- require its physician owners to disclose their financial interest in the specialty hospital and provide a list of alternative hospitals to the patient prior to referring a patient to the specialty hospital;
- require its physician owners to notify patients if it does not have an intensive care unit and explain that if intensive care services are required they will be transferred to another hospital;
- require physicians with privileges at its facility to also maintain privileges at a general hospital in the same health service area and provide the same on-call services as other specialists in the health service area;

- provide continuous emergency services; and
- establish procedures to stabilize and transfer patients with emergency needs that exceed its abilities and maintain a transfer agreement with a general hospital in the same health service area.

These requirements do not apply to specialty hospitals that provide only psychiatric, pediatric, long-term acute care, cancer or rehabilitative services. Hospitals licensed prior to January 1, 2006, are exempt from these requirements.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: If a nonprofit hospital does not make an adequate margin, it cannot provide the broader services that hospitals provide to the community that do not make money. Specialty hospitals take resources from general hospitals which will reduce their ability to subsidize community safety net programs. Specialty hospitals can focus on profitable procedures as well as patients who are healthier and have better reimbursement. This bill will level the playing field by placing licensing requirements on specialty hospitals.

Testimony Against: The issues surrounding specialty hospitals should not be addressed prior to the report of the Certificate of Need Task Force in November. This bill will make specialty hospitals prohibitively expensive. Specialty hospitals allow physicians greater control over hospital operations, increased productivity, and more flexibility in scheduling. Patients have higher satisfaction rates at specialty hospitals. The availability of specialty hospitals gives physicians a position from which to bargain with community hospitals for better conditions.

Persons Testifying: (In support) Lisa Thatcher and Robb Menaul, Washington State Hospital Association.

(Opposed) Carl Nelson, Washington State Medical Association.

Persons Signed In To Testify But Not Testifying: None.