# HOUSE BILL REPORT
# HB 1378

**As Reported by House Committee On:**
Health Care & Wellness

**Title:** An act relating to licensing specialty hospitals.

**Brief Description:** Licensing specialty hospitals.

**Sponsors:** Representatives Cody, Priest, Campbell, Green, Morrell, Jarrett, Williams and Ormsby.

**Brief History:**
**Committee Activity:**
Health Care & Wellness: 1/29/07, 2/8/07 [DP].

**Brief Summary of Bill**

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

## HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** Do pass. Signed by 10 members: Representatives Cody, Chair; Morrell, Vice Chair; Barlow, Campbell, Curtis, Green, Moeller, Pedersen, Schual-Berke and Seaquist.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Hinkle, Ranking Minority Member; Alexander, Assistant Ranking Minority Member 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

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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. The 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 reviewed its payment rates and procedures for approving hospitals to participate in Medicare.

In 2005, Washington enacted Chapter 39 (SSB 5178), Laws of 2005 which prohibited 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 have been 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.

In February 2006, the Deficit Reduction Act of 2005 (DRA) was enacted. The DRA directed the CMS to develop a strategic and implementing plan related to specialty hospitals. In August 2006, the CMS issued its final report which made several recommendations including that it continue to work to reform payment systems that create incentives for specialty hospitals; that hospitals disclose information concerning physician investment; and that hospitals accept patients requiring the type of care that the hospital offers when the patients are transferred to them, even if they do not necessarily have an emergency room.

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**Summary of 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:

- have staff who are proficient in resuscitation and respiration available at all times;
- 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;
- accept patients requiring the type of care or treatment provided by the specialty hospital when they are transferred from general hospitals;
- 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, 2007, are exempt from these requirements.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Staff Summary of Public Testimony:**

(In support) Community general hospitals are the safety net in the medical system because they take all patients and specialty hospitals have the potential to undermine their role. Specialty hospitals have an advantage over general hospitals because they can focus on patients in good overall health and avoid emergency patients. Specialty hospitals are not as cost-efficient as community hospitals.

(Opposed) None.

**Persons Testifying:** Robb Menaul and Lisa Thatcher, Washington State Hospital Association.

**Persons Signed In To Testify But Not Testifying:** Bill Daley, Washington Community Action Network; Janet Varon, Northwest Health Law Advocates; and Carl Nelson, Washington State Medical Association.