

# SENATE BILL REPORT

## SB 5017

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As of February 1, 2013

**Title:** An act relating to eliminating the certificate of need review for all health care facilities except hospitals.

**Brief Description:** Eliminating the certificate of need review for all health care facilities except hospitals.

**Sponsors:** Senators Benton and Carrell.

**Brief History:**

**Committee Activity:** Health Care: 1/29/13.

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### SENATE COMMITTEE ON HEALTH CARE

**Staff:** Kathleen Buchli (786-7488)

**Background:** The certificate of need program is a regulatory process that requires certain healthcare providers to get state approval before building certain types of facilities or offering new or expanded services. The certificate of need process is intended to help ensure that facilities and new services proposed by healthcare providers are needed for quality patient care within a particular region or community. A certificate of need from the Department of Health (DOH) is required for construction, development, or establishment of the following healthcare facilities: hospitals; nursing homes; kidney dialysis centers; Medicare or Medicaid home health agencies and hospice agencies; ambulatory surgical centers; and hospice care centers. Certificate of need review is also necessary for increases in the number of stations at a kidney dialysis center; sale, purchase, or lease of all or part of an existing hospital; increases in the number of licensed beds at a hospital, nursing home, or hospice care center; offering a tertiary health service such as rehabilitation programs, open heart surgery, therapeutic cardiac catheterization, organ transplantation, specialty burn services, intermediate care nursery or obstetric services, neonatal intensive care nursery or obstetric services, and specialized inpatient pediatric services; a capital expenditure made by a nursing home exceeding \$2,403,990; nursing home bed banking transactions; and nursing home replacements.

Under the program, DOH must review the project under specific criteria related to community need, quality of services, financial feasibility, and the impact on health care costs in the community. Certain facilities are exempt from the certificate of need requirement.

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These include certain facilities offering inpatient tertiary health services; nursing homes that are owned and operated by a continuing care retirement community; and certain hospice agencies.

**Summary of Bill:** The certificate of need review is eliminated for all facilities except hospitals. The term hospitals is amended to include freestanding emergency rooms that advertise as emergency rooms but are not physically connected or adjacent to a licensed hospital. Hospitals must seek a certificate of review for the construction, development, or other establishment of a new hospital; the sale, purchase, or lease of part of all or any existing hospital; and any tertiary health services that are offered in or through a hospital.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: The certificate of need process needs to be eliminated. Application fees are excessive, and requiring health care facilities to get certificates of need before providing new services is an impediment to providing effective health care. The certificate of need process has many problems including the timing of when you can apply, and the appeals process when competitors can appeal and slow the process down or greatly increase costs to the applicant. It is an artificial impediment to entry into business. The free market should determine whether the services are needed. Removing the certificate of need requirement can increase access to care. The certificate of need requirement does not control costs. We need to repeal the certificate of need requirement and enter into a thoughtful process to see what needs to replace it.

CON: The certificate of need process provides for controlled growth, patient safety, and industry integrity. Lack of controlled growth inhibits the ability to provide services in an efficient manner. There are reforms to the certificate of need process that could be made instead of eliminating it for most facilities. Affected parties currently have a broad appeal authority and can interfere with the process; this could be addressed by awarding penalties against intervenors if the certificate of need is approved. The solution is reform and rulemaking, not the current bill. We oppose removing skilled nursing facilities from the certificate of need requirement. We need to better provide for access and quality of care for nursing facilities. Look at the 2006 certificate of need task force study which recommended legislation to improve and strengthen the certificate of need program. This needs to be reviewed for all entities; hospitals should not be the only entity subject to certificate of need review.

OTHER: The bill should be amended to continue certificate of need oversight over nursing homes. We need to put the certificate of need requirement through a comprehensive review process.

**Persons Testifying:** PRO: Senator Benton, prime sponsor; Lisa Everson, WA Ambulatory Surgery Center Assn.; Natalie Baxter, citizen; Carl Nelson, WA State Medical Assn.

CON: Greg Pang, Community Home Health and Hospice; Doris Visaya, Home Care Assn. of WA, WA State Hospice and Palliative Care Assn.; Scott Sigmon, Leading Age WA; Lisa Thatcher, WA State Hospital Assn.

OTHER: Liz Tidyman, citizen.