

**SB 6485 - H AMD 1197**

By Representative Cody

ADOPTED 03/10/2004

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The department of health, in  
4 cooperation with the Washington state hospital association, shall  
5 oversee a pilot project to implement and evaluate strategies to reduce  
6 the burden on hospitals, and improve the quality and efficiency, of  
7 hospital surveys or audits.

8 (2) The pilot project shall also include the state auditor's  
9 office, the department of revenue, the department of social and health  
10 services, the state board of pharmacy, the department of ecology, the  
11 office of the state fire marshal, the department of labor and  
12 industries, local building and fire officials, and the joint commission  
13 on accreditation of health care organizations.

14 (3) Strategies to be implemented and evaluated by the pilot project  
15 include, but are not limited to, providing notice of survey and audit  
16 visits, consolidation of survey and audit visits, coordination of  
17 separate survey and audit visits, deeming of one agency's visits for  
18 another, using a combined entrance meeting with hospital management,  
19 identifying a standard set of documents to be available for all surveys  
20 and audits, and minimizing duplication of required documents.

21 (4) The department of health shall report to the legislature by  
22 December 1, 2004, regarding the results of the pilot project and the  
23 strategies identified for adoption on a statewide basis to improve the  
24 regulatory environment for hospitals while assuring the safety and  
25 well-being of patients and full compliance with relevant state and  
26 local laws.

27 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.41 RCW  
28 to read as follows:

29 (1) Unless the context clearly requires otherwise, the definitions  
30 in this subsection apply throughout this section.

1 (a) "Agency" means a department of state government created under  
2 RCW 43.17.010 and the office of the state auditor.

3 (b) "Audit" means an examination of records or financial accounts  
4 to evaluate accuracy and monitor compliance with statutory or  
5 regulatory requirements.

6 (c) "Hospital" means a hospital licensed under chapter 70.41 RCW.

7 (d) "Survey" means an inspection, examination, or site visit  
8 conducted by an agency to evaluate and monitor the compliance of a  
9 hospital or hospital services or facilities with statutory or  
10 regulatory requirements.

11 (2) By July 1, 2004, each state agency which conducts hospital  
12 surveys or audits shall post to its agency web site a list of the most  
13 frequent problems identified in its hospital surveys or audits along  
14 with information on how to avoid or address the identified problems,  
15 and a person within the agency that a hospital may contact with  
16 questions or for further assistance.

17 (3) By July 1, 2004, the department of health, in cooperation with  
18 other state agencies which conduct hospital surveys or audits, shall  
19 develop an instrument, to be provided to every hospital upon completion  
20 of a state survey or audit, which allows the hospital to anonymously  
21 evaluate the survey or audit process in terms of quality, efficacy, and  
22 the extent to which it supported improved patient care and compliance  
23 with state law without placing an unnecessary administrative burden on  
24 the hospital. The evaluation may be returned to the department of  
25 health for distribution to the appropriate agency. The department of  
26 health shall annually compile the evaluations in a report to the  
27 legislature.

28 (4) Except when responding to complaints or immediate public health  
29 and safety concerns or when such prior notice would conflict with other  
30 state or federal law, any state agency that provides notice of a  
31 hospital survey or audit must provide such notice to the hospital no  
32 less than four weeks prior to the date of the survey or audit.

33 **Sec. 3.** RCW 70.41.080 and 1995 c 369 s 40 are each amended to read  
34 as follows:

35 Standards for fire protection and the enforcement thereof, with  
36 respect to all hospitals to be licensed hereunder shall be the  
37 responsibility of the chief of the Washington state patrol, through the  
38 director of fire protection, who shall adopt, after approval by the

1 department, such recognized standards as may be applicable to hospitals  
2 for the protection of life against the cause and spread of fire and  
3 fire hazards. Such standards shall be consistent with the standards  
4 adopted by the federal centers for medicare and medicaid services for  
5 hospitals that care for medicare or medicaid beneficiaries. The  
6 department upon receipt of an application for a license, shall submit  
7 to the director of fire protection in writing, a request for an  
8 inspection, giving the applicant's name and the location of the  
9 premises to be licensed. Upon receipt of such a request, the chief of  
10 the Washington state patrol, through the director of fire protection,  
11 or his or her deputy, shall make an inspection of the hospital to be  
12 licensed, and if it is found that the premises do not comply with the  
13 required safety standards and fire regulations as adopted pursuant to  
14 this chapter, he or she shall promptly make a written report to the  
15 hospital and to the department listing the corrective actions required  
16 and the time allowed for accomplishing such corrections. The applicant  
17 or licensee shall notify the chief of the Washington state patrol,  
18 through the director of fire protection, upon completion of any  
19 corrections required by him or her, and the chief of the Washington  
20 state patrol, through the director of fire protection, or his or her  
21 deputy, shall make a reinspection of such premises. Whenever the  
22 hospital to be licensed meets with the approval of the chief of the  
23 Washington state patrol, through the director of fire protection, he or  
24 she shall submit to the department a written report approving the  
25 hospital with respect to fire protection, and such report is required  
26 before a full license can be issued. The chief of the Washington state  
27 patrol, through the director of fire protection, shall make or cause to  
28 be made inspections of such hospitals at least once a year.

29 In cities which have in force a comprehensive building code, the  
30 provisions of which are determined by the chief of the Washington state  
31 patrol, through the director of fire protection, to be equal to the  
32 minimum standards of the code for hospitals adopted by the chief of the  
33 Washington state patrol, through the director of fire protection, the  
34 chief of the fire department, provided the latter is a paid chief of a  
35 paid fire department, shall make the inspection with the chief of the  
36 Washington state patrol, through the director of fire protection, or  
37 his or her deputy and they shall jointly approve the premises before a  
38 full license can be issued.

1           **Sec. 4.** RCW 70.41.120 and 1995 c 282 s 4 are each amended to read  
2 as follows:

3           The department shall make or cause to be made at least yearly an  
4 inspection of all hospitals. Every inspection of a hospital may  
5 include an inspection of every part of the premises. The department  
6 may make an examination of all phases of the hospital operation  
7 necessary to determine compliance with the law and the standards, rules  
8 and regulations adopted thereunder. Any licensee or applicant desiring  
9 to make alterations or additions to its facilities or to construct new  
10 facilities shall, before commencing such alteration, addition or new  
11 construction, comply with the regulations prescribed by the department.

12           No hospital licensed pursuant to the provisions of this chapter  
13 shall be required to be inspected or licensed under other state laws or  
14 rules and regulations promulgated thereunder, or local ordinances,  
15 relative to hotels, restaurants, lodging houses, boarding houses,  
16 places of refreshment, nursing homes, maternity homes, or psychiatric  
17 hospitals.

18           To avoid unnecessary duplication in inspections, the department  
19 shall coordinate with the department of social and health services, the  
20 office of the state fire marshal, and local agencies when inspecting  
21 facilities over which (~~both agencies have~~) each agency has  
22 jurisdiction, the facilities including but not necessarily being  
23 limited to hospitals with both acute care and skilled nursing or  
24 psychiatric nursing functions. The department shall notify the office  
25 of the state fire marshal and the relevant local agency at least four  
26 weeks prior to any inspection conducted under this section and invite  
27 their attendance at the inspection, and shall provide a copy of its  
28 inspection report to each agency upon completion.

29           NEW SECTION. **Sec. 5.** A new section is added to chapter 70.41 RCW  
30 to read as follows:

31           (1) The department shall coordinate its hospital construction  
32 review process with other state and local agencies having similar  
33 review responsibilities, including the department of labor and  
34 industries, the office of the state fire marshal, and local building  
35 and fire officials. Inconsistencies or conflicts among the agencies  
36 shall be identified and eliminated. The department shall provide local  
37 agencies with relevant information derived from its construction review  
38 process.

1 (2) By September 1, 2004, the department shall report to the  
2 legislature regarding its implementation of subsection (1) of this  
3 section.

4 **Sec. 6.** RCW 70.38.105 and 1996 c 50 s 1 are each amended to read  
5 as follows:

6 (1) The department is authorized and directed to implement the  
7 certificate of need program in this state pursuant to the provisions of  
8 this chapter.

9 (2) There shall be a state certificate of need program which is  
10 administered consistent with the requirements of federal law as  
11 necessary to the receipt of federal funds by the state.

12 (3) No person shall engage in any undertaking which is subject to  
13 certificate of need review under subsection (4) of this section without  
14 first having received from the department either a certificate of need  
15 or an exception granted in accordance with this chapter.

16 (4) The following shall be subject to certificate of need review  
17 under this chapter:

18 (a) The construction, development, or other establishment of a new  
19 health care facility;

20 (b) The sale, purchase, or lease of part or all of any existing  
21 hospital as defined in RCW 70.38.025;

22 (c) Any capital expenditure for the construction, renovation, or  
23 alteration of a nursing home which substantially changes the services  
24 of the facility after January 1, 1981, provided that the substantial  
25 changes in services are specified by the department in rule;

26 (d) Any capital expenditure for the construction, renovation, or  
27 alteration of a nursing home which exceeds the expenditure minimum as  
28 defined by RCW 70.38.025. However, a capital expenditure which is not  
29 subject to certificate of need review under (a), (b), (c), or (e) of  
30 this subsection and which is solely for any one or more of the  
31 following is not subject to certificate of need review:

32 (i) Communications and parking facilities;

33 (ii) Mechanical, electrical, ventilation, heating, and air  
34 conditioning systems;

35 (iii) Energy conservation systems;

36 (iv) Repairs to, or the correction of, deficiencies in existing  
37 physical plant facilities which are necessary to maintain state  
38 licensure, however, other additional repairs, remodeling, or

1 replacement projects that are not related to one or more deficiency  
2 citations and are not necessary to maintain state licensure are not  
3 exempt from certificate of need review except as otherwise permitted by  
4 (d)(vi) of this subsection or RCW 70.38.115(13);

5 (v) Acquisition of equipment, including data processing equipment,  
6 which is not or will not be used in the direct provision of health  
7 services;

8 (vi) Construction or renovation at an existing nursing home which  
9 involves physical plant facilities, including administrative, dining  
10 areas, kitchen, laundry, therapy areas, and support facilities, by an  
11 existing licensee who has operated the beds for at least one year;

12 (vii) Acquisition of land; and

13 (viii) Refinancing of existing debt;

14 (e) A change in bed capacity of a health care facility which  
15 increases the total number of licensed beds or redistributes beds among  
16 acute care, nursing home care, and boarding home care if the bed  
17 redistribution is to be effective for a period in excess of six months,  
18 or a change in bed capacity of a rural health care facility licensed  
19 under RCW 70.175.100 that increases the total number of nursing home  
20 beds or redistributes beds from acute care or boarding home care to  
21 nursing home care if the bed redistribution is to be effective for a  
22 period in excess of six months. A health care facility certified as a  
23 critical access hospital under 42 U.S.C. 1395i-4 may increase its total  
24 number of licensed beds to the total number of beds permitted under 42  
25 U.S.C. 1395i-4 for acute care and may redistribute beds permitted under  
26 42 U.S.C. 1395i-4 among acute care and nursing home care without being  
27 subject to certificate of need review. If there is a nursing home  
28 licensed under chapter 18.51 RCW within twenty-seven miles of the  
29 critical access hospital, the critical access hospital is subject to  
30 certificate of need review except for:

31 (i) Critical access hospitals which had designated beds to provide  
32 nursing home care, in excess of five swing beds, prior to December 31,  
33 2003; or

34 (ii) Up to five swing beds.

35 Critical access hospital beds not subject to certificate of need  
36 review under this subsection (4)(e) will not be counted as either acute  
37 care or nursing home care for certificate of need review purposes. If  
38 a health care facility ceases to be certified as a critical access

1 hospital under 42 U.S.C. 1395i-4, the hospital may revert back to the  
2 type and number of licensed hospital beds as it had when it requested  
3 critical access hospital designation;

4 (f) Any new tertiary health services which are offered in or  
5 through a health care facility or rural health care facility licensed  
6 under RCW 70.175.100, and which were not offered on a regular basis by,  
7 in, or through such health care facility or rural health care facility  
8 within the twelve-month period prior to the time such services would be  
9 offered;

10 (g) Any expenditure for the construction, renovation, or alteration  
11 of a nursing home or change in nursing home services in excess of the  
12 expenditure minimum made in preparation for any undertaking under  
13 subsection (4) of this section and any arrangement or commitment made  
14 for financing such undertaking. Expenditures of preparation shall  
15 include expenditures for architectural designs, plans, working  
16 drawings, and specifications. The department may issue certificates of  
17 need permitting predevelopment expenditures, only, without authorizing  
18 any subsequent undertaking with respect to which such predevelopment  
19 expenditures are made; and

20 (h) Any increase in the number of dialysis stations in a kidney  
21 disease center.

22 (5) The department is authorized to charge fees for the review of  
23 certificate of need applications and requests for exemptions from  
24 certificate of need review. The fees shall be sufficient to cover the  
25 full cost of review and exemption, which may include the development of  
26 standards, criteria, and policies.

27 (6) No person may divide a project in order to avoid review  
28 requirements under any of the thresholds specified in this section.

29 **Sec. 7.** RCW 70.44.240 and 1997 c 332 s 16 are each amended to read  
30 as follows:

31 Any public hospital district may contract or join with any other  
32 public hospital district, (~~any~~) publicly owned hospital, (~~any~~)  
33 nonprofit hospital, (~~any corporation, any other~~) legal entity, or  
34 individual to acquire, own, operate, manage, or provide any hospital or  
35 other health care facilities or hospital services or other health care  
36 services to be used by individuals, districts, hospitals, or others,  
37 including (~~the~~) providing (~~of~~) health maintenance services. If a  
38 public hospital district chooses to contract or join with another party

1 or parties pursuant to the provisions of this chapter, it may do so  
2 through (~~the establishment of~~) establishing a nonprofit corporation,  
3 partnership, limited liability company, or other legal entity of its  
4 choosing in which the public hospital district and the other party or  
5 parties participate. The governing body of such legal entity shall  
6 include representatives of the public hospital district, (~~including~~)  
7 which representatives may include members of the public hospital  
8 district's board of commissioners. A public hospital district  
9 contracting or joining with another party pursuant to the provisions of  
10 this chapter may appropriate funds and may sell, lease, or otherwise  
11 provide property, personnel, and services to the legal entity  
12 established to carry out the contract or joint activity."

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13 On page 1, line 2 of the title, after "hospitals;" strike the  
14 remainder of the title and insert "amending RCW 70.41.080, 70.41.120,  
15 70.38.105, and 70.44.240; adding new sections to chapter 70.41 RCW; and  
16 creating a new section."

EFFECT: Specifies that the requirement that agencies provide at least four weeks' notice prior to conducting a survey or audit of a hospital does not apply when the agency is responding to a complaint or immediate public health and safety concerns or when it would conflict with other state or federal laws.

Exempts critical access hospitals that are over 27 miles from a nursing home, or that had designated beds for nursing home care prior to December 31, 2003, from certificate of need review when increasing bed capacity up to 25 beds. Makes the participation of public hospital district commissioners on the governing body of a joint entity permissive rather than mandatory.

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