CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1688

Chapter 283, Laws of 2005

59th Legislature
2005 Regular Session

HEALTH PLANNING AND DEVELOPMENT--TASK FORCE

EFFECTIVE DATE: 7/24/05

Passed by the House April 19, 2005
Yeas 80 Nays 18

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 7, 2005
Yeas 34 Nays 11

BRAD OWEN

President of the Senate

Approved May 4, 2005.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1688** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

May 4, 2005 - 3:49 p.m.

Secretary of State
State of Washington

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1688

AS AMENDED BY THE SENATE

Passed Legislature - 2005 Regular Session

State of Washington 59th Legislature 2005 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Cody, Clibborn, Moeller, Sommers, Kenney and Schual-Berke)

READ FIRST TIME 03/07/05.

AN ACT Relating to creating a task force to review health care facilities and services supply issues; and creating new sections.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** The legislature finds that:

(1) Since the enactment of health planning and development legislation in 1979, the widespread adoption of new health care technologies has resulted in significant advancements in the diagnosis and treatment of disease, and has enabled substantial expansion of sites where complex care and surgery can be performed;

(2) New and existing technologies, supply sensitive health services, and demographics have a substantial effect on health care expenditures. Yet, evidence related to their effectiveness is not routinely or systematically considered in decision making regarding widespread adoption of these technologies and services. The principles of evidence-based medicine call for comprehensive review of data and studies related to a particular health care service or device, with emphasis given to high quality, objective studies. Findings regarding the effectiveness of these health services or devices should then be

applied to increase the likelihood that they will be used appropriately;

(3) The standards governing whether a certificate of need should be granted in RCW 70.38.115 focus largely on broad concepts of access to and availability of health services, with only limited consideration of cost-effectiveness. Moreover, the standards do not provide explicit guidance for decision making or evaluating competing certificate of need applications; and

(4) The certificate of need statute plays a vital role and should be reexamined and strengthened to reflect changes in health care delivery and financing since its enactment.

NEW SECTION. **Sec. 2.** (1) A task force is created to study and prepare recommendations to the governor and the legislature related to improving and updating the certificate of need program in chapter 70.38 RCW. The report must be submitted to the governor and appropriate committees of the legislature by November 1, 2006.

(2) Members of the task force must be appointed by the governor. The task force members shall elect a member of the task force to serve as chair. Members of the task force include:

(a) Four representatives of the legislature, including one member appointed by each caucus of the house of representatives and the senate;

(b) Two representatives of private employer-sponsored health benefits purchasers;

(c) One representative of labor organizations that purchase health benefits through Taft-Hartley plans;

(d) One representative of health carriers;

(e) Two representatives of health care consumers;

(f) One health care economist;

(g) The secretary of the department of social and health services, or his or her designee;

(h) The administrator of the health care authority, or his or her designee;

(i) The secretary of the department of health; and

(j) Two health care provider representatives, chosen by the members of the technical advisory committee established in subsection (3) of this section, from among the members of that committee.

(3) The task force shall establish one or more technical advisory committees composed of affected health care providers and other individuals or entities who can serve as a source of technical expertise. The task force shall actively consult with, and solicit recommendations from, the technical advisory committee or committees regarding issues under consideration by the task force.

(4) Subject to the availability of amounts appropriated for this specific purpose, staff support for the task force shall be provided by the health care authority. The health care authority shall contract for technical expertise necessary to complete the responsibilities of the task force. Legislative members of the task force shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050.

NEW SECTION. **Sec. 3.** (1) In conducting the certificate of need study and preparing recommendations, the task force shall be guided by the following principles:

(a) The supply of a health service can have a substantial impact on utilization of the service, independent of the effectiveness, medical necessity, or appropriateness of the particular health service for a particular individual;

(b) Given that health care resources are not unlimited, the impact of any new health service or facility on overall health expenditures in the state must be considered;

(c) Given our increasing ability to undertake technology assessment and measure the quality and outcomes of health services, the likelihood that a requested new health facility, service, or equipment will improve health care quality and outcomes must be considered; and

(d) It is generally presumed that the services and facilities currently subject to certificate of need should remain subject to those requirements.

(2) The task force shall, at a minimum, examine and develop recommendations related to the following issues:

(a) The need for a new and regularly updated set of service and facility specific policies that guide certificate of need decisions;

(b) A review of the purpose and goals of the current certificate of need program, including the relationship between the supply of health services and health care outcomes and expenditures in Washington state;

(c) The scope of facilities, services, and capital expenditures that should be subject to certificate of need review, including consideration of the following:

(i) Acquisitions of major medical equipment, meaning a single unit of medical equipment or a single system of components with related functions used to provide medical and other health services;

(ii) Major capital expenditures. Capital expenditures for information technology needed to support electronic health records should be encouraged;

(iii) The offering or development of any new health services, as defined in RCW 70.38.025, that meets any of the following:

(A) The obligation of substantial capital expenditures by or on behalf of a health care facility that is associated with the addition of a health service that was not offered on a regular basis by or on behalf of the health care facility within the twelve-month period prior to the time the services would be offered;

(B) The addition of equipment or services, by transfer of ownership, acquisition by lease, donation, transfer, or acquisition of control, through management agreement or otherwise, that was not offered on a regular basis by or on behalf of the health care facility or the private office of a licensed health care provider regulated under Title 18 RCW or chapter 70.127 RCW within the twelve-month period prior to the time the services would be offered and that for the third fiscal year of operation, including a partial first year following acquisition of that equipment or service, is projected to entail substantial incremental operating costs or annual gross revenue directly attributable to that health service;

(iv) The scope of health care facilities subject to certificate of need requirements, to include consideration of hospitals, including specialty hospitals, psychiatric hospitals, nursing facilities, kidney disease treatment centers including freestanding hemodialysis facilities, rehabilitation facilities, ambulatory surgical facilities, freestanding emergency rooms or urgent care facilities, home health agencies, hospice agencies and hospice care centers, freestanding radiological service centers, freestanding cardiac catheterization

centers, or cancer treatment centers. "Health care facility" includes the office of a private health care practitioner in which surgical procedures are performed;

(d) The criteria for review of certificate of need applications, as currently defined in RCW 70.38.115, with the goal of having criteria that are consistent, clear, technically sound, and reflect state law, including consideration of:

(i) Public need for the proposed services as demonstrated by certain factors, including, but not limited to:

(A) Whether, and the extent to which, the project will substantially address specific health problems as measured by health needs in the area to be served by the project;

(B) Whether the project will have a positive impact on the health status indicators of the population to be served;

(C) Whether there is a substantial risk that the project would result in inappropriate increases in service utilization or the cost of health services;

(D) Whether the services affected by the project will be accessible to all residents of the area proposed to be served; and

(E) Whether the project will provide demonstrable improvements in quality and outcome measures applicable to the services proposed in the project, including whether there is data to indicate that the proposed health services would constitute innovations in high quality health care delivery;

(ii) Impact of the proposed services on the orderly and economic development of health facilities and health resources for the state as demonstrated by:

(A) The impact of the project on total health care expenditures after taking into account, to the extent practical, both the costs and benefits of the project and the competing demands in the local service area and statewide for available resources for health care;

(B) The impact of the project on the ability of existing affected providers and facilities to continue to serve uninsured or underinsured residents of the community and meet demands for emergency care;

(C) The availability of state funds to cover any increase in state costs associated with utilization of the project's services; and

(D) The likelihood that more effective, more accessible, or less

costly alternative technologies or methods of service delivery may become available;

(e) The timeliness and consistency of certificate of need reviews and decisions, the sufficiency and use of resources available to the department of health to conduct timely reviews, the means by which the department of health projects future need for services, the ability to reflect differences among communities and approaches to providing services, and clarification on the use of the concurrent review process; and

(f) Mechanisms to monitor ongoing compliance with the assumptions made by facilities that have received either a certificate of need or an exemption to a certificate of need, including those related to volume, the provision of charity care, and access to health services to medicaid and medicare beneficiaries as well as underinsured and uninsured members of the community.

(3) In developing its recommendations, the task force shall consider the results of a performance audit of the department of health regarding its administration and implementation of the certificate of need program. The audit shall be conducted by the joint legislative audit and review committee, and be completed by July 1, 2006.

NEW SECTION. **Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2005, in the omnibus appropriations act, this act is null and void.

Passed by the House April 19, 2005.
Passed by the Senate April 7, 2005.
Approved by the Governor May 4, 2005.
Filed in Office of Secretary of State May 4, 2005.