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HOUSE BILL 1330

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State of Washington

54th Legislature

1995 Regular Session

By Representatives Dyer, Dellwo and Backlund; by request of Department of Health

Read first time 01/23/95. Referred to Committee on Health Care.

1 AN ACT Relating to health facilities and services; amending RCW  
2 70.38.015, 70.38.025, 70.38.105, 70.38.115, 70.38.125, and 70.38.135;  
3 creating new sections; decodifying RCW 70.38.155, 70.38.156, 70.38.157,  
4 70.38.914, 70.38.915, 70.38.916, 70.38.917, 70.38.918, and 70.38.919;  
5 repealing RCW 70.38.095, 70.38.105, 70.38.111, 70.38.115, 70.38.125,  
6 and 70.38.220; providing an effective date; and declaring an emergency.

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

8 **Sec. 1.** RCW 70.38.015 and 1989 1st ex.s. c 9 s 601 are each  
9 amended to read as follows:

10 It is declared to be the public policy of this state:

11 (1) That health planning is essential to: Promote((, maintain, and  
12 assure)) the health of all citizens in the state((, to)); recognize  
13 prevention as a high priority; and provide accessible, quality health  
14 services, health ((manpower)) personnel, health facilities, and other  
15 resources ((while controlling excessive increases in costs, and to  
16 recognize prevention as a high priority in health programs, is  
17 essential to the health, safety, and welfare of the people of the  
18 state)). Health planning should be responsive to the changing needs of  
19 the health ((and social needs and conditions)) system. Involvement in

1 health planning from both consumers and providers throughout the state  
2 should be encouraged;

3 ~~(2) ((That the development of health services and resources,~~  
4 ~~including the construction, modernization, and conversion of health~~  
5 ~~facilities, should be accomplished in a planned, orderly fashion,~~  
6 ~~consistent with identified priorities and without unnecessary~~  
7 ~~duplication or fragmentation;~~

8 ~~(3))~~ That the development and maintenance of adequate health care  
9 information, statistics and projections of need for health facilities  
10 and services is essential to effective health planning and resources  
11 development;

12 ~~((4))~~ (3) That the development of nonregulatory approaches to  
13 health care cost containment should be considered, including the  
14 strengthening of ~~((price competition))~~ market forces; and

15 ~~((5))~~ (4) That health planning should be concerned with public  
16 health ~~((and health care financing))~~, access, and quality, recognizing  
17 their close interrelationship and emphasizing ~~((cost control))~~ cost-  
18 effectiveness of health services~~((, including cost effectiveness and~~  
19 ~~cost benefit analysis))~~.

20 **Sec. 2.** RCW 70.38.025 and 1991 c 158 s 1 are each amended to read  
21 as follows:

22 When used in this chapter, the terms defined in this section shall  
23 have the meanings indicated.

24 (1) "Board of health" means the state board of health created  
25 pursuant to chapter 43.20 RCW.

26 (2) Until July 1, 1997, "capital expenditure" is an expenditure,  
27 including a force account expenditure (i.e., an expenditure for a  
28 construction project undertaken by a nursing home facility as its own  
29 contractor) which, under generally accepted accounting principles, is  
30 not properly chargeable as an expense of operation or maintenance.  
31 Where a person makes an acquisition under lease or comparable  
32 arrangement, or through donation, which would have required review if  
33 the acquisition had been made by purchase, such expenditure shall be  
34 deemed a capital expenditure. Capital expenditures include donations  
35 of equipment or facilities to a nursing home facility which if acquired  
36 directly by such facility would be subject to certificate of need  
37 review under the provisions of this chapter and transfer of equipment  
38 or facilities for less than fair market value if a transfer of the

1 equipment or facilities at fair market value would be subject to such  
2 review. The cost of any studies, surveys, designs, plans, working  
3 drawings, specifications, and other activities essential to the  
4 acquisition, improvement, expansion, or replacement of any plant or  
5 equipment with respect to which such expenditure is made shall be  
6 included in determining the amount of the expenditure. This subsection  
7 expires July 1, 1997.

8 (3) Until July 1, 1997, "continuing care retirement community"  
9 means an entity which provides shelter and services under continuing  
10 care contracts with its members and which sponsors or includes a health  
11 care facility or a health service. A "continuing care contract" means  
12 a contract to provide a person, for the duration of that person's life  
13 or for a term in excess of one year, shelter along with nursing,  
14 medical, health-related, or personal care services, which is  
15 conditioned upon the transfer of property, the payment of an entrance  
16 fee to the provider of such services, or the payment of periodic  
17 charges for the care and services involved. A continuing care contract  
18 is not excluded from this definition because the contract is mutually  
19 terminable or because shelter and services are not provided at the same  
20 location. This subsection expires July 1, 1997.

21 (4) "Department" means the department of health.

22 (5) Until July 1, 1997, "expenditure minimum" means, for the  
23 purposes of the certificate of need program, one million dollars  
24 adjusted by the department by rule to reflect changes in the United  
25 States department of commerce composite construction cost index; or a  
26 lesser amount required by federal law and established by the department  
27 by rule. This subsection expires July 1, 1997.

28 (6) Until July 1, 1996, "health care facility" means hospices,  
29 hospitals, psychiatric hospitals, nursing homes, kidney disease  
30 treatment centers, (~~ambulatory surgical facilities,~~) and home health  
31 agencies, and includes such facilities when owned and operated by a  
32 political subdivision or instrumentality of the state and such other  
33 facilities as required by federal law and implementing regulations, but  
34 does not include Christian Science sanatoriums operated, listed, or  
35 certified by the First Church of Christ Scientist, Boston,  
36 Massachusetts. In addition, the term does not include any nonprofit  
37 hospital: (a) Which is operated exclusively to provide health care  
38 services for children; (b) which does not charge fees for such  
39 services; and (c) if not contrary to federal law as necessary to the

1 receipt of federal funds by the state. On July 1, 1996, "health care  
2 facility" means nursing homes. This subsection expires July 1, 1997.

3 (7) Until July 1, 1997, "health maintenance organization" means a  
4 public or private organization, organized under the laws of the state,  
5 which:

6 (a) Is a qualified health maintenance organization under Title  
7 XIII, section 1310(d) of the Public Health Services Act; or

8 (b)(i) Provides or otherwise makes available to enrolled  
9 participants health care services, including at least the following  
10 basic health care services: Usual physician services, hospitalization,  
11 laboratory, x-ray, emergency, and preventive services, and out-of-area  
12 coverage; (ii) is compensated (except for copayments) for the provision  
13 of the basic health care services listed in (b)(i) to enrolled  
14 participants by a payment which is paid on a periodic basis without  
15 regard to the date the health care services are provided and which is  
16 fixed without regard to the frequency, extent, or kind of health  
17 service actually provided; and (iii) provides physicians' services  
18 primarily (A) directly through physicians who are either employees or  
19 partners of such organization, or (B) through arrangements with  
20 individual physicians or one or more groups of physicians (organized on  
21 a group practice or individual practice basis). This subsection  
22 expires July 1, 1997.

23 (8) Until July 1, 1997, "health services" means clinically related  
24 (i.e., preventive, diagnostic, curative, rehabilitative, or palliative)  
25 services and includes alcoholism, drug abuse, and mental health  
26 services and as defined in federal law. This subsection expires July  
27 1, 1997.

28 (9) "Health service area" means a geographic region appropriate for  
29 effective health planning which includes a broad range of health  
30 services.

31 (10) "Person" means an individual, a trust or estate, a  
32 partnership, a corporation (including associations, joint stock  
33 companies, and insurance companies), the state, or a political  
34 subdivision or instrumentality of the state, including a municipal  
35 corporation or a hospital district.

36 (11) "Provider" (~~generally~~) means a health care professional or  
37 an organization, institution, or other entity providing health care  
38 (~~but the precise definition for this term shall be established by rule~~  
39 ~~of the department, consistent with federal law~~)).

1 (12) "Public health" means the level of well-being of the general  
2 population; those actions in a community necessary to preserve,  
3 protect, and promote the health of the people for which government is  
4 responsible; and the governmental system developed to guarantee the  
5 preservation of the health of the people.

6 (13) "Secretary" means the secretary of health or the secretary's  
7 designee.

8 (14) "Tertiary health service" means a specialized service that  
9 meets complicated medical needs of people and requires sufficient  
10 patient volume to optimize provider effectiveness, quality of service,  
11 and improved outcomes of care.

12 (15) "Hospital" means any health care institution which is required  
13 to qualify for a license under RCW 70.41.020(2); or as a psychiatric  
14 hospital under chapter 71.12 RCW.

15 **Sec. 3.** RCW 70.38.105 and 1992 c 27 s 1 are each amended to read  
16 as follows:

17 (1) The department is authorized and directed to implement the  
18 certificate of need program in this state pursuant to the provisions of  
19 this chapter.

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

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

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

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

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

33 ~~(e))~~ Any capital expenditure for the construction, renovation, or  
34 alteration of a nursing home which substantially changes the services  
35 of the facility ~~((after January 1, 1981,))~~ provided that the  
36 substantial changes in services are specified by the department in  
37 rule;

1       ~~((d))~~ (c) Any capital expenditure for the construction,  
2 renovation, or alteration of a nursing home which exceeds the  
3 expenditure minimum as defined by RCW 70.38.025. However, a capital  
4 expenditure which is not subject to certificate of need review under  
5 (a), (b), ~~((e),)~~ or ~~((e))~~ (d) of this subsection and which is  
6 solely for any one or more of the following is not subject to  
7 certificate of need review except to the extent required by the federal  
8 government as a condition to receipt of federal assistance and does not  
9 substantially affect patient charges:

10       (i) Communications and parking facilities;

11       (ii) Mechanical, electrical, ventilation, heating, and air  
12 conditioning systems;

13       (iii) Energy conservation systems;

14       (iv) Repairs to, or the correction of, deficiencies in existing  
15 physical plant facilities which are necessary to maintain state  
16 licensure;

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

20       (vi) Construction which involves physical plant facilities,  
21 including administrative and support facilities, which are not or will  
22 not be used for the provision of health services;

23       (vii) Acquisition of land; and

24       (viii) Refinancing of existing debt;

25       ~~((e))~~ (d) A change in bed capacity of a health care facility  
26 which increases the total number of licensed beds or redistributes beds  
27 ~~((among))~~ between acute care~~((,))~~ and nursing home care~~((, and boarding~~  
28 ~~home care))~~ if the bed redistribution is to be effective for a period  
29 in excess of six months, or a change in bed capacity of a rural health  
30 care facility licensed under RCW 70.175.100 that increases the total  
31 number of nursing home beds or redistributes beds from acute care ~~((or~~  
32 ~~boarding home care))~~ to nursing home care if the bed redistribution is  
33 to be effective for a period in excess of six months;

34       ~~((f))~~ (e) Any new tertiary health services which are offered in  
35 or through a health care facility or rural health care facility  
36 licensed under RCW 70.175.100~~((, and which were not offered on a~~  
37 ~~regular basis by, in, or through such health care facility or rural~~  
38 ~~health care facility within the twelve month period prior to the time~~  
39 ~~such services would be offered;~~

1       ~~(g) Any expenditure for the construction, renovation, or alteration~~  
2 ~~of a nursing home or change in nursing home services in excess of the~~  
3 ~~expenditure minimum made in preparation for any undertaking under~~  
4 ~~subsection (4) of this section and any arrangement or commitment made~~  
5 ~~for financing such undertaking. Expenditures of preparation shall~~  
6 ~~include expenditures for architectural designs, plans, working~~  
7 ~~drawings, and specifications. The department may issue certificates of~~  
8 ~~need permitting predevelopment expenditures, only, without authorizing~~  
9 ~~any subsequent undertaking with respect to which such predevelopment~~  
10 ~~expenditures are made)); and~~

11       ~~((h))~~ (f) Until July 1, 1996, any increase in the number of  
12 dialysis stations in a kidney disease center.

13       (5) The department is authorized to charge fees for the review of  
14 certificate of need applications and requests for exemptions from  
15 certificate of need review. The fees shall be sufficient to cover the  
16 full cost of review and exemption, which may include the development of  
17 standards, criteria, and policies.

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

20       **Sec. 4.** RCW 70.38.115 and 1993 c 508 s 6 are each amended to read  
21 as follows:

22       (1) Certificates of need shall be issued, denied, suspended, or  
23 revoked by the designee of the secretary in accord with the provisions  
24 of this chapter and rules of the department ~~((which establish review~~  
25 ~~procedures and criteria for the certificate of need program))~~.

26       (2) Criteria for the review of certificate of need applications,  
27 except as provided in subsection (3) of this section for health  
28 maintenance organizations, shall include but not be limited to  
29 consideration of the following:

30       (a) The need that the population served or to be served by such  
31 services has for such services;

32       (b) ~~((The availability of less costly or more effective alternative~~  
33 ~~methods of providing such services;~~

34       ~~(c))~~ The financial feasibility ~~((and the probable impact of the~~  
35 ~~proposal on the cost of and charges for providing health services in~~  
36 ~~the community to be served))~~ as it relates to quality and access;

37       ~~((d) In the case of health services to be provided, (i) the~~  
38 ~~availability of alternative uses of project resources for the provision~~

1 of other health services, ~~(ii))~~ (c) The extent to which such proposed  
2 services will be accessible to all residents of the area to be  
3 served(~~,~~ and ~~(iii)~~ the need for and the availability in the community  
4 of services and facilities for osteopathic and allopathic physicians  
5 and their patients. The department shall consider the application in  
6 terms of its impact on existing and proposed institutional training  
7 programs for doctors of osteopathy and medicine at the student,  
8 internship, and residency training levels;

9 ~~(e)~~ In the case of a construction project, the costs and methods of  
10 the proposed construction, including the cost and methods of energy  
11 provision, and the probable impact of the construction project reviewed  
12 ~~(i)~~ on the cost of providing health services by the person proposing  
13 such construction project and ~~(ii)~~ on the cost and charges to the  
14 public of providing health services by other persons));

15 ~~((f))~~ (d) Until July 1, 1996, the special needs and circumstances  
16 of osteopathic hospitals, nonallopathic services, and children's  
17 hospitals;

18 ~~((g))~~ (e) Improvements or innovations in ~~((the financing and))~~  
19 delivery of health services ~~((which foster cost containment and serve~~  
20 ~~to))~~ that promote quality assurance ~~((and cost effectiveness))~~;

21 ~~((h) In the case of health services proposed to be provided,)~~ (f)  
22 The efficiency and appropriateness of the use of existing services and  
23 facilities similar to those proposed;

24 ~~((i))~~ (g) In the case of existing services or facilities, the  
25 quality of care provided by such services or facilities in the past;

26 ~~((j) In the case of hospital certificate of need applications,~~  
27 ~~whether the hospital meets or exceeds the regional average level of~~  
28 ~~charity care, as determined by the secretary;))~~ and

29 ~~((k))~~ (h) In the case of nursing home applications:

30 (i) The availability of other nursing home beds in the planning  
31 area to be served; and

32 (ii) The availability of other services in the community to be  
33 served. Data used to determine the availability of other services will  
34 include but not be limited to data provided by the department of social  
35 and health services.

36 (3) A certificate of need application of a health maintenance  
37 organization or a health care facility which is controlled, directly or  
38 indirectly, by a health maintenance organization, shall be approved by  
39 the department if the department finds:

1 (a) Approval of such application is required to meet the needs of  
2 the members of the health maintenance organization and of the new  
3 members which such organization can reasonably be expected to enroll;  
4 and

5 (b) The health maintenance organization is unable to provide,  
6 through services or facilities which can reasonably be expected to be  
7 available to the organization, its health services in a reasonable and  
8 cost-effective manner which is consistent with the basic method of  
9 operation of the organization and which makes such services available  
10 on a long-term basis through physicians and other health professionals  
11 associated with it.

12 A health care facility, or any part thereof, with respect to which  
13 a certificate of need was issued under this subsection may not be sold  
14 or leased and a controlling interest in such facility or in a lease of  
15 such facility may not be acquired unless the department issues a  
16 certificate of need approving the sale, acquisition, or lease.

17 (4) (~~Until the final expiration of the state health plan as~~  
18 ~~provided under RCW 70.38.919, the decision of the department on a~~  
19 ~~certificate of need application shall be consistent with the state~~  
20 ~~health plan in effect, except in emergency circumstances which pose a~~  
21 ~~threat to the public health.)) The department in making its final  
22 decision may issue a conditional certificate of need if it finds that  
23 the project is justified only under specific circumstances. The  
24 conditions shall directly relate to the project being reviewed. The  
25 conditions may be released if it can be substantiated that the  
26 conditions are no longer valid and the release of such conditions would  
27 be consistent with the purposes of this chapter.~~

28 (5) Criteria adopted for review in accordance with subsection (2)  
29 of this section may vary according to the purpose for which the  
30 particular review is being conducted or the type of health service  
31 reviewed.

32 (6) The department shall specify information to be required for  
33 certificate of need applications. Within (~~fifteen~~) ten working days  
34 of receipt of the application, the department shall request additional  
35 information considered necessary to the application or start the review  
36 process. Applicants may decline to submit requested information  
37 through written notice to the department, in which case review starts  
38 on the date of receipt of the notice. Applications may be denied or

1 limited because of failure to submit required and necessary  
2 information.

3 (7) Concurrent review is for the purpose of comparative analysis  
4 and evaluation of competing or similar projects in order to determine  
5 which of the projects may best meet identified needs. Categories of  
6 projects subject to concurrent review include at least new health care  
7 facilities, new services, and expansion of existing health care  
8 facilities. The department shall specify time periods for the  
9 submission of applications for certificates of need subject to  
10 concurrent review, which shall not exceed ninety days. Review of  
11 concurrent applications shall start (~~(fifteen)~~) ten working days after  
12 the conclusion of the time period for submission of applications  
13 subject to concurrent review. Concurrent review periods shall be  
14 limited to one hundred fifty days, except as provided for in rules  
15 adopted by the department authorizing and limiting amendment during the  
16 course of the review, or for an unresolved pivotal issue declared by  
17 the department.

18 (8) Review periods for certificate of need applications other than  
19 those subject to concurrent review shall be limited to ninety days.  
20 Review periods may be extended up to thirty days if needed by a review  
21 agency, and for unresolved pivotal issues the department may extend up  
22 to an additional thirty days. A review may be extended in any case if  
23 the applicant agrees to the extension.

24 (9) The department or its designee, shall conduct a public hearing  
25 on a certificate of need application if requested, unless the review is  
26 expedited or subject to emergency review. The department by rule shall  
27 specify the period of time within which a public hearing must be  
28 requested and requirements related to public notice of the hearing,  
29 procedures, recordkeeping and related matters.

30 (10) Any applicant denied a certificate of need or whose  
31 certificate of need has been suspended or revoked has the right to an  
32 adjudicative proceeding. The proceeding is governed by chapter 34.05  
33 RCW, the Administrative Procedure Act.

34 (11) (~~An amended certificate of need shall be required for the~~  
35 ~~following modifications of an approved project:~~

- 36 ~~(a) A new service requiring review under this chapter;~~  
37 ~~(b) An expansion of a service subject to review beyond that~~  
38 ~~originally approved;~~  
39 ~~(c) An increase in bed capacity;~~

1       ~~(d) A significant reduction in the scope of a nursing home project~~  
2 ~~without a commensurate reduction in the cost of the nursing home~~  
3 ~~project, or a cost increase (as represented in bids on a nursing home~~  
4 ~~construction project or final cost estimates acceptable to the person~~  
5 ~~to whom the certificate of need was issued) if the total of such~~  
6 ~~increases exceeds twelve percent or fifty thousand dollars, whichever~~  
7 ~~is greater, over the maximum capital expenditure approved. The review~~  
8 ~~of reductions or cost increases shall be restricted to the continued~~  
9 ~~conformance of the nursing home project with the review criteria~~  
10 ~~pertaining to financial feasibility and cost containment.~~

11       ~~(12))~~) An application for a certificate of need for a nursing home  
12 capital expenditure which is determined by the department to be  
13 required to eliminate or prevent imminent safety hazards or correct  
14 violations of applicable licensure and accreditation standards shall be  
15 approved.

16       ~~((13))~~) (12) In the case of an application for a certificate of  
17 need to replace existing nursing home beds, all criteria must be met on  
18 the same basis as an application for a certificate of need for a new  
19 nursing home, except that the need criteria shall be deemed met if the  
20 applicant is an existing licensee who proposes to replace existing beds  
21 that the licensee has operated for at least one year with the same or  
22 fewer number of beds in the same planning area. When an entire nursing  
23 home ceases operation, its beds shall be treated as existing nursing  
24 home beds for purposes of replacement for eight years or until a  
25 certificate of need to replace them is issued, whichever occurs first.  
26 However, the nursing home must give notice of its intent to retain the  
27 beds to the department of health no later than thirty days after the  
28 effective date of the facility's closure.

29       **Sec. 5.** RCW 70.38.125 and 1989 1st ex.s. c 9 s 606 are each  
30 amended to read as follows:

31       (1) A certificate of need shall be valid for two years. One six-  
32 month extension may be made if it can be substantiated that substantial  
33 and continuing progress toward commencement of the project has been  
34 made as defined by regulations to be adopted pursuant to this chapter.

35       (2) A project for which a certificate of need has been issued shall  
36 be commenced during the validity period for the certificate of need.

37       (3) The department shall monitor the approved projects to assure  
38 conformance with certificates of need that have been issued. Rules and

1 regulations adopted shall specify when changes in the project require  
2 reevaluation of the project. The department may require applicants to  
3 submit periodic progress reports on approved projects or other  
4 information as may be necessary to effectuate its monitoring  
5 responsibilities.

6 (4) The secretary, in the case of a new health facility, or the  
7 secretary of the department of social and health services, in the case  
8 of nursing homes, shall not issue any license unless and until a prior  
9 certificate of need shall have been issued by the department for the  
10 offering or development of such new health facility.

11 (5) Any person who engages in any undertaking which requires  
12 certificate of need review without first having received from the  
13 department either a certificate of need or an exception granted in  
14 accordance with this chapter shall be liable to the state in an amount  
15 not to exceed one hundred dollars a day for each day of such  
16 unauthorized offering or development. Such amounts of money shall be  
17 recoverable in an action brought by the attorney general on behalf of  
18 the state in the superior court of any county in which the unauthorized  
19 undertaking occurred. Any amounts of money so recovered by the  
20 attorney general shall be deposited in the state general fund.

21 (6) The department may bring any action to enjoin a violation or  
22 the threatened violation of the provisions of this chapter or any rules  
23 and regulations adopted pursuant to this chapter, or may bring any  
24 legal proceeding authorized by law, including but not limited to the  
25 special proceedings authorized in Title 7 RCW, in the superior court in  
26 the county in which such violation occurs or is about to occur, or in  
27 the superior court of Thurston county.

28 **Sec. 6.** RCW 70.38.135 and 1989 1st ex.s. c 9 s 607 are each  
29 amended to read as follows:

30 The secretary shall have authority to:

31 (1) (~~Provide when needed~~) Contract for temporary or intermittent  
32 services of experts or consultants or organizations (~~thereof, by~~  
33 ~~contract, when such services are to be performed on a part time or fee-~~  
34 ~~for service basis~~);

35 (2) Make or cause to be made such on-site surveys of health care or  
36 medical facilities as may be necessary for the administration of the  
37 certificate of need program;

1       ~~((Upon review of recommendations, if any, from the board of~~  
2 ~~health:~~

3       ~~((a))) Promulgate rules under which health care ((facilities))  
4 providers doing business within the state shall submit to the  
5 department such data ((related to health and health care)) as the  
6 department finds necessary to the performance of its functions under  
7 this chapter;~~

8       ~~((b)))~~ (4) Promulgate rules pertaining to the maintenance and  
9 operation of medical facilities which receive federal assistance under  
10 the provisions of Title XVI;

11       ~~((c)))~~ (5) Promulgate rules in implementation of the provisions of  
12 this chapter, including the establishment of procedures for public  
13 hearings for predecisions and post-decisions on applications for  
14 certificate of need; and

15       ~~((d)))~~ (6) Promulgate rules providing circumstances and procedures  
16 of expedited certificate of need review if there has not been a  
17 significant change in existing health facilities of the same type or in  
18 the need for such health facilities and services(~~(+~~

19       ~~(4) Grant allocated state funds to qualified entities, as defined~~  
20 ~~by the department, to fund not more than seventy five percent of the~~  
21 ~~costs of regional planning activities, excluding costs related to~~  
22 ~~review of applications for certificates of need, provided for in this~~  
23 ~~chapter or approved by the department; and~~

24       ~~(5) Contract with and provide reasonable reimbursement for~~  
25 ~~qualified entities to assist in determinations of certificates of~~  
26 ~~need)).~~

27       NEW SECTION. Sec. 7. RCW 70.38.155, 70.38.156, 70.38.157,  
28 70.38.914, 70.38.915, 70.38.916, 70.38.917, 70.38.918, and 70.38.919  
29 are each decodified.

30       NEW SECTION. Sec. 8. RCW 70.38.095 and 1979 ex.s. c 161 s 9 are  
31 each repealed.

32       NEW SECTION. Sec. 9. The following acts or parts of acts are each  
33 repealed, effective July 1, 1997:

34       (1) RCW 70.38.105 and 1995 c . . . s 3 (section 3 of this act),  
35 1992 c 27 s 1, 1991 sp.s. c 8 s 4, 1989 1st ex.s. c 9 s 603, 1984 c 288

1 s 21, 1983 c 235 s 7, 1982 c 119 s 2, 1980 c 139 7, & 1979 ex.s. c 161  
2 s 10;

3 (2) RCW 70.38.111 and 1993 c 508 s 5, 1992 c 27 s 2, 1991 c 158 s  
4 2, 1989 1st ex.s. c 9 s 604, 1982 c 119 s 3, & 1980 c 139 s 9;

5 (3) RCW 70.38.115 and 1995 c ... s 4 (section 4 of this act) & 1993  
6 c 508 s 6;

7 (4) RCW 70.38.125 and 1995 c . . . s 5 (section 5 of this act),  
8 1989 1st ex.s. c 9 s 606, 1983 c 235 s 9, 1980 c 139 s 10, & 1979 ex.s.  
9 c 161 s 12; and

10 (5) RCW 70.38.220 and 1991 c 271 s 1.

11 NEW SECTION. **Sec. 10.** The department shall, by December 1, 1995,  
12 provide recommendations to the legislature on what, if any, system  
13 needs to be maintained by the state to assess quality and access issues  
14 of health services and facilities. Consideration should be given to  
15 the policy statement as outlined in RCW 70.38.015, as well as the  
16 potential impact of health reform on quality and access to services and  
17 facilities.

18 NEW SECTION. **Sec. 11.** (1) The enactment of this act shall not  
19 have the effect of terminating, or in any way modifying, the validity  
20 of any certificate of need that shall already have been issued before  
21 July 1, 1995.

22 (2) Any certificate of need application that was submitted and  
23 declared complete, but upon which final action had not been taken  
24 before July 1, 1995, shall be renewed and action taken based on chapter  
25 70.38 RCW as in effect before July 1, 1995.

26 NEW SECTION. **Sec. 12.** If any part of this act is found to be in  
27 conflict with federal requirements that are a prescribed condition to  
28 the allocation of federal funds to the state, the conflicting part of  
29 this act is inoperative solely to the extent of the conflict and with  
30 respect to the agencies directly affected, and this finding does not  
31 affect the operation of the remainder of this act in its application to  
32 the agencies concerned. The rules under this act shall meet federal  
33 requirements that are a necessary condition to the receipt of federal  
34 funds by the state.

1        NEW SECTION.    **Sec. 13.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

5        NEW SECTION.    **Sec. 14.**    This act is necessary for the immediate  
6 preservation of the public peace, health, or safety, or support of the  
7 state government and its existing public institutions, and shall take  
8 effect July 1, 1995.

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