

# HOUSE BILL REPORT

## ESB 5949

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**As Reported by House Committee On:**  
Health Care  
Appropriations

**Title:** An act relating to hospital emergency services.

**Brief Description:** Establishing emergency service requirements for hospitals.

**Sponsors:** Senators Deccio and Thibaudeau.

**Brief History:**

**Committee Activity:**

Health Care: 4/1/03, 4/3/03 [DP];

Appropriations: 4/5/03, 4/7/03 [DPA].

**Brief Summary of Engrossed Bill**  
**(As Amended by House Committee)**

- Requires certain hospitals to provide emergency services 24 hours per day, seven days per week.
- Requires the Department of Health to conduct a study on the establishment of specialty hospitals and their impacts on the delivery of health care.

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### HOUSE COMMITTEE ON HEALTH CARE

**Majority Report:** Do pass. Signed by 8 members: Representatives Cody, Chair; Morrell, Vice Chair; Bailey, Assistant Ranking Minority Member; Campbell, Clibborn, Darneille, Edwards and Moeller.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Pflug, Ranking Minority Member; and Schual-Berke.

**Staff:** Chris Blake (786-7392).

**Background:**

State Regulation of Hospitals

Hospitals are health care facilities that provide continuous accommodations, facilities, and services, over a period of at least 24 hours, to patients requiring observation, diagnosis, or care. Acute care hospitals may serve patients who require surgery and interventional services, obstetrical and nursery services, emergency care units or services, critical care units or services, cardiology services, pediatric care services, rehabilitation units, oncology services, and laboratory services.

If a hospital chooses to provide emergency services, state regulations require that emergency facilities: are appropriately located and accessible; have at least one major treatment or trauma room; have a minor treatment and examination room; have an observation room; and have room for severely disturbed patients. If the hospital provides regular trauma care, it must meet additional criteria.

A person must obtain a certificate of need from the Department of Health (Department) prior to the construction, development, establishment, or sale of a hospital, or an increase in bed capacity or the addition of a tertiary health service at a hospital. The Department must consider specific criteria when determining whether or not to issue a certificate of need including: (1) the population's need for the service; (2) the availability of less costly or more effective alternative methods of providing the service; (3) the financial feasibility and probable impact of the proposal on the cost of health care in the community; (4) the need and availability of services and facilities for physicians and their patients in the community; (5) the efficiency and appropriateness of the use of existing services and facilities similar to those proposed; and (6) whether the hospital meets or exceeds the regional average level of charity care.

#### Federal Law Regarding Emergency Services

The Emergency Medical Treatment and Labor Act (EMTALA) requires hospitals that have an emergency department and participate in the Medicare program to provide care for any individual that comes to the hospital's emergency department. Such care includes providing the individual with a medical screening exam to determine the presence of an emergency condition. If such a condition is present, the hospital must either provide treatment to stabilize the person or, if the resources to treat the person are not available, transfer the individual to another medical facility.

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#### **Summary of Bill:**

All licensed hospitals in Washington must provide emergency services 24 hours per day, seven days per week in a designated area of the hospital. Each hospital must have at least an emergency physician who is immediately available, a roster of on-call medical staff members, and procedures to ensure the patient's safety until transfer to a more appropriate facility for the patient's needs. Each hospital must meet all state and federal laws regarding emergency care and facilities.

The emergency services requirement does not apply to: hospitals that only provide psychiatric, pediatric, long-term acute care, or rehabilitative services; hospitals licensed before January 1, 2003; and hospitals that are designated as critical access hospitals.

The Department of Health (Department) must conduct a study of issues pertaining to specialty hospitals with interested parties, including hospitals, physicians, and nurses. The study shall examine the establishment of specialty hospitals, the requirements of this bill regarding the provision of emergency services, and the impact of specialty hospitals on the delivery of health care. The Department must report to the Legislature by December 1, 2003. The Legislature must reevaluate the requirements of this bill based upon the study.

The requirement that hospitals have emergency facilities and offer emergency services expires on July 1, 2004.

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**Appropriation:** None.

**Fiscal Note:** Requested on March 28, 2003.

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

**Testimony For:** This bill maintains the status quo for hospital emergency services until the Department of Health can complete a study that will provide more information for making future decisions. This bill had unanimous support in the Senate.

**Testimony Against:** Surgical hospitals tend to do more charity care than acute care hospitals. Surgical hospitals are already required to be prepared to respond to the needs of an emergency patient. Surgical hospitals can attract and retain physicians and provide the community with greater access to care. This bill is unnecessary because the certificate of need process already addresses a community's need for additional services.

**Testified:** (In support) Senator Deccio, prime sponsor; and Lisa Thatcher and Robb Menaul, Washington State Hospital Association.

(Opposed) Carl Nelson, Washington State Medical Association; Andrea Martell, Surgis; Daniel Newls, Neurosurgery Northwest; and Michael Martin, Puget Sound Spine Institute.

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass as amended. Signed by 19 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Pearson, Assistant Ranking Minority Member;

Boldt, Buck, Cody, Conway, Dunshee, Grant, Hunter, Kagi, Kenney, Linville, McDonald, McIntire, Miloscia, Ruderman, Sump and Talcott.

**Minority Report:** Do not pass. Signed by 8 members: Representatives Sehlin, Ranking Minority Member; Alexander, Clements, Cox, DeBolt, Kessler, Pflug and Schual-Berke.

**Staff:** Amy Hanson (786-7118).

**Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Health Care:**

The study on the establishment of specialty hospitals and their impacts on the delivery of health care is funded through a one-time bed assessment of \$8 on all hospitals with 150 or more beds.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** This issue has been hotly debated. The bill puts a requirement in place for one year that any new hospital built must have an emergency room. The bill maintains the status quo with respect to hospital delivery. The current regulatory system does not address specialty hospitals. The requirements in this bill maintain a level playing field while the study is being conducted. The Washington State Hospital Association is willing to pay a one-time bed assessment on hospitals to fund the study. We need to better address how to regulate specialty hospitals and address issues for existing hospitals.

**Testimony Against:** The certificate of need process can impose an emergency room on specialty hospitals or not. As a physician, to require specialty hospitals to have emergency rooms doesn't make sense. The certificate of need process already looks at the requirements that the study proposes to address. It is very difficult to recruit physicians in Washington. Specialty hospitals make for more efficient practices and help attract physicians. This is a bill that is not good for physicians, hospitals, or our communities. We believe the real reason for this bill is to prevent physicians from competing with hospitals. The same issues were raised regarding ambulatory surgical centers. A new bed tax for the study doesn't make sense given the current budget situation

**Testified:** (Supports) Lisa Thatcher, Washington State Hospital Association.

(Opposed) Bill Stauffacher, Advanced Surgical Associates; Carl Nelson, Washington State Medical Association; and Daniel Nehls, Neurosurgery Northwest Hospital.