

CERTIFICATION OF ENROLLMENT

SENATE BILL 6485

58th Legislature
2004 Regular Session

Passed by the Senate March 11, 2004
YEAS 49 NAYS 0

President of the Senate

Passed by the House March 10, 2004
YEAS 97 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Milton H. Doumit, Jr.,
Secretary of the Senate of the
State of Washington, do hereby
certify that the attached is
SENATE BILL 6485 as passed by the
Senate and the House of
Representatives on the dates
hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 6485

AS AMENDED BY THE HOUSE

Passed Legislature - 2004 Regular Session

State of Washington 58th Legislature 2004 Regular Session

By Senators Deccio and Winsley

Read first time 01/21/2004. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to improving the regulatory environment for
2 hospitals; amending RCW 70.41.080, 70.41.120, 70.38.105, and 70.44.240;
3 adding new sections to chapter 70.41 RCW; and creating a new section.

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

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

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

16 (3) Strategies to be implemented and evaluated by the pilot project
17 include, but are not limited to, providing notice of survey and audit
18 visits, consolidation of survey and audit visits, coordination of
19 separate survey and audit visits, deeming of one agency's visits for

1 another, using a combined entrance meeting with hospital management,
2 identifying a standard set of documents to be available for all surveys
3 and audits, and minimizing duplication of required documents.

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

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

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

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

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

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

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

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

30 (3) By July 1, 2004, the department of health, in cooperation with
31 other state agencies which conduct hospital surveys or audits, shall
32 develop an instrument, to be provided to every hospital upon completion
33 of a state survey or audit, which allows the hospital to anonymously
34 evaluate the survey or audit process in terms of quality, efficacy, and
35 the extent to which it supported improved patient care and compliance
36 with state law without placing an unnecessary administrative burden on
37 the hospital. The evaluation may be returned to the department of

1 health for distribution to the appropriate agency. The department of
2 health shall annually compile the evaluations in a report to the
3 legislature.

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

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

11 Standards for fire protection and the enforcement thereof, with
12 respect to all hospitals to be licensed hereunder shall be the
13 responsibility of the chief of the Washington state patrol, through the
14 director of fire protection, who shall adopt, after approval by the
15 department, such recognized standards as may be applicable to hospitals
16 for the protection of life against the cause and spread of fire and
17 fire hazards. Such standards shall be consistent with the standards
18 adopted by the federal centers for medicare and medicaid services for
19 hospitals that care for medicare or medicaid beneficiaries. The
20 department upon receipt of an application for a license, shall submit
21 to the director of fire protection in writing, a request for an
22 inspection, giving the applicant's name and the location of the
23 premises to be licensed. Upon receipt of such a request, the chief of
24 the Washington state patrol, through the director of fire protection,
25 or his or her deputy, shall make an inspection of the hospital to be
26 licensed, and if it is found that the premises do not comply with the
27 required safety standards and fire regulations as adopted pursuant to
28 this chapter, he or she shall promptly make a written report to the
29 hospital and to the department listing the corrective actions required
30 and the time allowed for accomplishing such corrections. The applicant
31 or licensee shall notify the chief of the Washington state patrol,
32 through the director of fire protection, upon completion of any
33 corrections required by him or her, and the chief of the Washington
34 state patrol, through the director of fire protection, or his or her
35 deputy, shall make a reinspection of such premises. Whenever the
36 hospital to be licensed meets with the approval of the chief of the
37 Washington state patrol, through the director of fire protection, he or

1 she shall submit to the department a written report approving the
2 hospital with respect to fire protection, and such report is required
3 before a full license can be issued. The chief of the Washington state
4 patrol, through the director of fire protection, shall make or cause to
5 be made inspections of such hospitals at least once a year.

6 In cities which have in force a comprehensive building code, the
7 provisions of which are determined by the chief of the Washington state
8 patrol, through the director of fire protection, to be equal to the
9 minimum standards of the code for hospitals adopted by the chief of the
10 Washington state patrol, through the director of fire protection, the
11 chief of the fire department, provided the latter is a paid chief of a
12 paid fire department, shall make the inspection with the chief of the
13 Washington state patrol, through the director of fire protection, or
14 his or her deputy and they shall jointly approve the premises before a
15 full license can be issued.

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

18 The department shall make or cause to be made at least yearly an
19 inspection of all hospitals. Every inspection of a hospital may
20 include an inspection of every part of the premises. The department
21 may make an examination of all phases of the hospital operation
22 necessary to determine compliance with the law and the standards, rules
23 and regulations adopted thereunder. Any licensee or applicant desiring
24 to make alterations or additions to its facilities or to construct new
25 facilities shall, before commencing such alteration, addition or new
26 construction, comply with the regulations prescribed by the department.

27 No hospital licensed pursuant to the provisions of this chapter
28 shall be required to be inspected or licensed under other state laws or
29 rules and regulations promulgated thereunder, or local ordinances,
30 relative to hotels, restaurants, lodging houses, boarding houses,
31 places of refreshment, nursing homes, maternity homes, or psychiatric
32 hospitals.

33 To avoid unnecessary duplication in inspections, the department
34 shall coordinate with the department of social and health services, the
35 office of the state fire marshal, and local agencies when inspecting
36 facilities over which (~~both agencies have~~) each agency has
37 jurisdiction, the facilities including but not necessarily being

1 limited to hospitals with both acute care and skilled nursing or
2 psychiatric nursing functions. The department shall notify the office
3 of the state fire marshal and the relevant local agency at least four
4 weeks prior to any inspection conducted under this section and invite
5 their attendance at the inspection, and shall provide a copy of its
6 inspection report to each agency upon completion.

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

9 (1) The department shall coordinate its hospital construction
10 review process with other state and local agencies having similar
11 review responsibilities, including the department of labor and
12 industries, the office of the state fire marshal, and local building
13 and fire officials. Inconsistencies or conflicts among the agencies
14 shall be identified and eliminated. The department shall provide local
15 agencies with relevant information derived from its construction review
16 process.

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

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

22 (1) The department is authorized and directed to implement the
23 certificate of need program in this state pursuant to the provisions of
24 this chapter.

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

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

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

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

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

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

7 (d) Any capital expenditure for the construction, renovation, or
8 alteration of a nursing home which exceeds the expenditure minimum as
9 defined by RCW 70.38.025. However, a capital expenditure which is not
10 subject to certificate of need review under (a), (b), (c), or (e) of
11 this subsection and which is solely for any one or more of the
12 following is not subject to certificate of need review:

13 (i) Communications and parking facilities;

14 (ii) Mechanical, electrical, ventilation, heating, and air
15 conditioning systems;

16 (iii) Energy conservation systems;

17 (iv) Repairs to, or the correction of, deficiencies in existing
18 physical plant facilities which are necessary to maintain state
19 licensure, however, other additional repairs, remodeling, or
20 replacement projects that are not related to one or more deficiency
21 citations and are not necessary to maintain state licensure are not
22 exempt from certificate of need review except as otherwise permitted by
23 (d)(vi) of this subsection or RCW 70.38.115(13);

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

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

31 (vii) Acquisition of land; and

32 (viii) Refinancing of existing debt;

33 (e) A change in bed capacity of a health care facility which
34 increases the total number of licensed beds or redistributes beds among
35 acute care, nursing home care, and boarding home care if the bed
36 redistribution is to be effective for a period in excess of six months,
37 or a change in bed capacity of a rural health care facility licensed
38 under RCW 70.175.100 that increases the total number of nursing home

1 beds or redistributes beds from acute care or boarding home care to
2 nursing home care if the bed redistribution is to be effective for a
3 period in excess of six months. A health care facility certified as a
4 critical access hospital under 42 U.S.C. 1395i-4 may increase its total
5 number of licensed beds to the total number of beds permitted under 42
6 U.S.C. 1395i-4 for acute care and may redistribute beds permitted under
7 42 U.S.C. 1395i-4 among acute care and nursing home care without being
8 subject to certificate of need review. If there is a nursing home
9 licensed under chapter 18.51 RCW within twenty-seven miles of the
10 critical access hospital, the critical access hospital is subject to
11 certificate of need review except for:

12 (i) Critical access hospitals which had designated beds to provide
13 nursing home care, in excess of five swing beds, prior to December 31,
14 2003; or

15 (ii) Up to five swing beds.

16 Critical access hospital beds not subject to certificate of need
17 review under this subsection (4)(e) will not be counted as either acute
18 care or nursing home care for certificate of need review purposes. If
19 a health care facility ceases to be certified as a critical access
20 hospital under 42 U.S.C. 1395i-4, the hospital may revert back to the
21 type and number of licensed hospital beds as it had when it requested
22 critical access hospital designation;

23 (f) Any new tertiary health services which are offered in or
24 through a health care facility or rural health care facility licensed
25 under RCW 70.175.100, and which were not offered on a regular basis by,
26 in, or through such health care facility or rural health care facility
27 within the twelve-month period prior to the time such services would be
28 offered;

29 (g) Any expenditure for the construction, renovation, or alteration
30 of a nursing home or change in nursing home services in excess of the
31 expenditure minimum made in preparation for any undertaking under
32 subsection (4) of this section and any arrangement or commitment made
33 for financing such undertaking. Expenditures of preparation shall
34 include expenditures for architectural designs, plans, working
35 drawings, and specifications. The department may issue certificates of
36 need permitting predevelopment expenditures, only, without authorizing
37 any subsequent undertaking with respect to which such predevelopment
38 expenditures are made; and

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

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

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

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

12 Any public hospital district may contract or join with any other
13 public hospital district, (~~any~~) publicly owned hospital, (~~any~~)
14 nonprofit hospital, (~~any corporation, any other~~) legal entity, or
15 individual to acquire, own, operate, manage, or provide any hospital or
16 other health care facilities or hospital services or other health care
17 services to be used by individuals, districts, hospitals, or others,
18 including (~~the~~) providing (~~of~~) health maintenance services. If a
19 public hospital district chooses to contract or join with another party
20 or parties pursuant to the provisions of this chapter, it may do so
21 through (~~the establishment of~~) establishing a nonprofit corporation,
22 partnership, limited liability company, or other legal entity of its
23 choosing in which the public hospital district and the other party or
24 parties participate. The governing body of such legal entity shall
25 include representatives of the public hospital district, (~~including~~)
26 which representatives may include members of the public hospital
27 district's board of commissioners. A public hospital district
28 contracting or joining with another party pursuant to the provisions of
29 this chapter may appropriate funds and may sell, lease, or otherwise
30 provide property, personnel, and services to the legal entity
31 established to carry out the contract or joint activity.

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