
**Health Care & Wellness
Committee**

HB 1415

Brief Description: Establishing activities to support the certificate of need program.

Sponsors: Representatives Cody, Green, Morrell, Moeller and Campbell.

Brief Summary of Bill

- Establishes the Washington Health Resources Strategy Commission to conduct health planning and to publish the Statewide Health Resources Strategy.
- Modifies the criteria for approving certificate of need applications, requires monitoring once a project is complete, and provides penalties for noncompliance.

Hearing Date: 1/29/07

Staff: Chris Blake (786-7392).

Background:

Certificate of Need

Washington State established its certificate of need program in 1971. In 1974 the federal government created incentives for states that adopted certificate of need programs and by 1980 all states were required to have such programs. When the federal requirements were eliminated in 1986, several states discontinued their certificate of need programs. Washington is one of thirty-six states that currently maintains a certificate of need program.

A certificate of need from the Department of Health is required prior to: the construction, renovation, or sale of a health care facility; changes in bed capacity at certain health care facilities; an increase in the number of dialysis stations at a kidney disease center; or the addition of specialized health services. Under the program, the Department of Health must review the project under specific criteria related to community need, quality of services, financial feasibility, and the impact on health care costs in the community. A facility or service that is subject to the certificate of need program must be approved prior to beginning operations.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Certificate of Need Task Force

In 2005, the Legislature passed HB 1688 which created the Certificate of Need Task Force to make recommendations to the Governor and the Legislature related to improving and updating the certificate of need program. The Health Care Authority provided support to the Task Force which was directed to make recommendations by November 1, 2006, related to:

- the scope of facilities, services and capital expenditures that should be subject to certificate of need reviews;
- the criteria for reviewing certificate of need applications;
- the need for service and facility specific policies to guide certificate of need decisions;
- the purpose of the certificate of need program;
- the timeliness and consistency of certificate of need decisions; and
- mechanisms to monitor commitments made by health care facilities.

While the Task Force met, the Joint Legislative Audit and Review Committee (JLARC) conducted an independent performance audit of the certificate of need program. This audit assessed the process for reviewing applications; the consistency of decisions; monitoring of approved projects; and program performance measurements. The audit was completed in June 2006 and the JLARC recommendations were considered in the Task Force's report.

Summary of Bill:

Health Planning Activities

The Office of Strategic Health Resource Coordination (Office) is created in the Office of the Governor. The Office is responsible for assisting the Washington Health Resources Strategy Commission (Commission) and preparing the Statewide Health Resources Strategy (Strategy). In addition, the Office must develop a computerized system for accessing, analyzing, and disseminating health planning data. The office must maintain access to deidentified data collected by public and private organizations to support the commissions health planning functions.

The Commission is created consisting of seventeen members appointed by the Governor to four year terms. The members specifically include: three health economists or health planners and representatives of nongovernment health purchasers, acute care facilities, long-term care facilities, health care providers, a federally-recognized Indian tribe, health care consumers, the Department of Health (Department), the Department of Social and Health Services, the Health Care Authority, and the Office of the Insurance Commissioner.

The Commission is responsible for developing the Strategy which establishes statewide health planning policies and goals related to the availability of facilities and services, quality of care, and cost of care. The Commission must consider the following goals and principles when developing the plan:

- Health care financing is structured in such a way that free market competition is limited and government planning and regulation is required to control costs, utilization, and distribution of health care services and facilities.
- Excess capacity of health services and facilities places a considerable burden on the public to pay for them.
- Accurate health care data related to cost and quality of health care and projections of need for health care facilities and services are necessary for effective health planning.

- An informed understanding of the state's health system can create a competitive health care system that is affordable, high-quality, and cost-effective.

The Strategy is comprised of five components.

- *A health system assessment and objectives component* which includes general demographic and health status information as well as key policy objectives related to access to care, health outcomes, quality, and cost-effectiveness.
- *A health care facilities and services plan* that assesses the demand for health care facilities and services to inform health planning and certificate of need determinations. The plan includes an inventory of existing health care facilities and services; projections of need; policies for the addition of new or expanded health care facilities and services; and an assessment of the availability of resources needed to support additional facilities and services.
- *A health care data resource plan* that identifies the data necessary to conduct health planning and certificate of need activities such as inpatient and outpatient utilization and outcome information, and financial and utilization information related to cost, quality, and charity care. The plan must identify existing data resources and identify where the data is insufficient to conduct health planning activities, and recommend where the Office should have access to additional data or agencies should expand their data collection.
- *An assessment of emerging trends in health care delivery and technology* which includes recommendations to change the scope of health care facilities and services covered by certificate of need or the review criteria.
- *A rural health resource plan* that assesses the availability of health resources in rural communities, their unmet needs, and how reimbursement policies can better meet their health care needs.

The final Strategy must be completed by January 1, 2009 and must be updated every two years. The regional health care facilities and services plans may be updated on a rotating biennial schedule. There are requirements for holding public hearings and accepting written comments prior to issuing the initial strategy, an updated strategy, or an updated health care facilities and services plan.

The Commission must submit the Strategy and any health care facilities and services plan updates to the Department to direct its certificate of need program activities.

Certificate of Need Program

The criteria for reviewing certificate of need applications are modified and several new criteria are added. Criteria related to community need shall be based upon current utilization data, evidence related to appropriate utilization, and utilization trends. Criteria requiring hospitals to meet or exceed average charity care levels are enhanced to review whether the applicant's policies exceed charity care requirements. The Department must consider the impact of a project on the health system infrastructure and the ability of existing providers to serve the underinsured and uninsured. Criteria are added to evaluate whether services other than hospitals shall provide charity care comparable to levels provided by similar services. New criteria are added pertaining to whether the applicant agrees to provide services to Medicare and Medicaid enrollees and not to discriminate against them based upon having such coverage. The Department shall review the

availability of health care providers to deliver the proposed service. Certificate of need determinations must be consistent with the Strategy and any policies and goals that it identifies.

After a project has been completed, the Department must monitor the operation of the project and the provision of services for five years. The Department shall monitor the compliance with the terms and conditions of approved certificates of need, including the service of the intended population, the service of Medicare and Medicaid clients, the level of charity care, the utilization and volume of a tertiary service, and other conditions applicable to specific projects. The Department shall establish a fee for conducting monitoring activities.

The Department must adopt policies to inform both the public and affected parties of certificate of need activities. The policies must address the distribution of information related to applications, application status, findings and decisions, appeals status, and monitoring status. Notifications may occur through postal mail, electronic mail, or a web site.

If an applicant does not comply with certificate of need regulations or the terms and conditions of an approved certificate of need, the Department may suspend, revoke, or modify the certificate of need, impose a fine of up to \$10,000, or impose a moratorium on future applications for up to two years. The Department must notify agencies that issued a license for the project of any violations and the agencies may initiate their own disciplinary actions.

Appropriation: None.

Fiscal Note: Requested on January 24, 2007.

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