

SENATE BILL REPORT

SB 5398

As Passed Senate, March 8, 2007

Title: An act relating to licensing specialty hospitals.

Brief Description: Licensing specialty hospitals.

Sponsors: Senators Marr, Brandland and Keiser.

Brief History:

Committee Activity: Health & Long-Term Care: 2/14/07, 2/21/07 [DP, w/oRec].

Passed Senate: 3/08/07, 42-2.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: Do pass.

Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug, Ranking Minority Member; Kastama, Kohl-Welles and Marr.

Minority Report: That it be referred without recommendation.

Signed by Senators Carrell and Parlette.

Staff: Edith Rice (786-7444)

Background: The federal Medicare Modernization Act of 2003 (MMA) prohibits a physician from referring a patient to certain specialty hospitals in which the physician has an ownership or investment interest, and prohibits the hospitals from billing Medicare or any other entity for services provided as a result of a prohibited referral. Effective December 2003 through June 2005, this prohibition applies to hospitals that are primarily or exclusively engaged in the care and treatment of patients with cardiac or orthopedic conditions and patients receiving surgical procedures.

This moratorium has now expired. However, the Centers for Medicare and Medicaid Services (CMS) have extended it administratively to further study related issues. Further congressional action is pending. Although specializing in specific types of treatment can improve the quality of care to patients, specialty hospitals have been a concern for several reasons, including: (1) potential financial conflict of interest for physicians who stand to gain from referrals to specialty hospitals in which they hold an interest; (2) "skimming" of more profitable cases; and (3) financial impact on community hospitals which provide emergency care and treat underinsured or uninsured patients.

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.

Until 2005, there were no state restrictions to specialty hospitals. The Department of Health regulates the establishment, operation, and licensing of hospitals generally. Substitute Senate Bill 5178 barred (for the period from January 1, 2005, until July 1, 2006) the Department of Health from granting a license to any specialty hospital in which a physician has an ownership or investment interest.

Specialty hospitals are defined to include any hospital that is primarily or exclusively engaged in the care and treatment of: (1) patients with a cardiac condition; (2) patients with an orthopedic condition; (3) patients receiving a surgical procedure; and (4) other specialized category of services that the Secretary of Health and Human Services designates as a specialty hospital.

Summary of Bill: Specialty hospital is defined as a subclass of hospital that is primarily or exclusively engaged in the care and treatment of patients with cardiac or orthopedic conditions, patients receiving surgical procedures or any other specialized category of service that the Secretary of Health and Human Services designates as a specialty hospital.

The Legislature establishes specific requirements in order for specialty hospitals to be licensed. These requirements include compliance with minimum participation rates for providing services to Medicare and Medicaid beneficiaries as well as a percentage of charity care provided by a general hospital in the same health service area. Specialty hospitals must also provide emergency services 24 hours per day, seven days a week. Provisions must be made to accommodate patients needing emergency services not available at the specialty hospital and include maintenance of a transfer agreement with a general hospital. Physician owners are required to disclose their financial interests in the specialty hospital to patients and provide a list of alternative hospitals. The specialty hospital is required to accept transfer of patients requiring the category of care they provide, from general hospitals.

These requirements do not pertain to specialty hospitals which provide psychiatric, pediatric, long-term acute care, cancer or rehabilitative services, or hospitals licensed before January 1, 2007.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The purpose of this bill is to level the playing field to prevent specialty hospitals from cherry picking and causing community hospitals to face severe financial hardships. Community hospitals are the safety net for health care needs and would be negatively affected by specialty hospitals without this bill. It should be considered whether cancer centers need to be excluded from this bill.

CON: This bill will not level the playing field, community hospitals don't pay B&O taxes. This is an economic means to outlaw specialty hospitals.

Persons Testifying: PRO: Senator Marr, prime sponsor; Robb Menaul, Washington State Hospital Association; Bill Daley, Washington Community Action Network

CON: Carl Nelson, Washington State Medical Association.