

CHAPTER 20

[Substitute House Bill No. 1392]

CONTINUING CARE RETIREMENT COMMUNITIES—CERTIFICATE OF NEED

AN ACT Relating to continuing care retirement community; and amending RCW 70.38.025.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 2, chapter 161, Laws of 1979 ex. sess. as last amended by section 43, chapter 41, Laws of 1983 1st ex. sess. and RCW 70.38.025 are each amended to read as follows:

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

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

(2) "Capital expenditure" is an expenditure, including a force account expenditure (i.e., an expenditure for a construction project undertaken by a facility as its own contractor) which, under generally accepted accounting principles, is not properly chargeable as an expense of operation or maintenance. Where a person makes an acquisition under lease or comparable arrangement, or through donation, which would have required review if the acquisition had been made by purchase, such expenditure shall be deemed a capital expenditure. Capital expenditures include donations of equipment or facilities to a health care facility which if acquired directly by such facility would be subject to certificate of need review under the provisions of this chapter and transfer of equipment or facilities for less than fair market value if a transfer of the equipment or facilities at fair market value would be subject to such review. The cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which such expenditure is made shall be included in determining the amount of the expenditure.

(3) "Continuing care retirement community" means an entity which provides shelter and services under continuing care contracts with its members and which sponsors or includes a health care facility or a health service. A "continuing care contract" means a contract to provide a person, for the duration of that person's life or for a term in excess of one year, shelter along with nursing, medical, health-related, or personal care services, which is conditioned upon the transfer of property, the payment of an entrance fee to the provider of such services, or the payment of periodic charges for the care and services involved. A continuing care contract is not excluded from this definition because the contract is mutually terminable or because shelter and services are not provided at the same location.

(4) "Council" means the state health coordinating council created in RCW 70.38.055 and described in Public Law 93-641.

~~((4))~~ (5) "Department" means the state department of social and health services.

~~((5))~~ (6) "Expenditure minimum" means, for the purposes of the certificate of need program, one million dollars adjusted by the department by rule to reflect changes in the United States department of commerce composite construction cost index; or a lesser amount required by federal law and established by the department by rule.

~~((6))~~ (7) "Federal law" means Public Law 93-641, as amended, or its successor.

~~((7))~~ (8) "Health care facility" means hospices, hospitals, psychiatric hospitals, tuberculosis hospitals, nursing homes, kidney disease treatment centers, ambulatory surgical facilities, rehabilitation facilities, continuing care retirement communities, and home health agencies, and includes such facilities when owned and operated by the state or by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations, but does not include Christian Science sanatoriums operated, listed, or certified by the First Church of Christ Scientist, Boston, Massachusetts. In addition, the term does not include any nonprofit hospital: (a) Which is operated exclusively to provide health care services for children; (b) which does not charge fees for such services; (c) whose rate reviews are waived by the state hospital commission; and (d) if not contrary to federal law as necessary to the receipt of federal funds by the state. In addition, the term does not include a continuing care retirement community which: (i) Offers services only to contractual members; and (ii) provides its members a contractually guaranteed range of services from independent living through skilled nursing, including some form of assistance with activities of daily living; and (iii) contractually assumes responsibility for costs of services exceeding the member's financial responsibility as stated in contract, so that, with the exception of insurance purchased by the retirement community or its members, no third party, including the medicaid program, is liable for costs of care even if the member depletes his or her personal resources; and (iv) has offered continuing care contracts and operated a nursing home continuously since January 1, 1988, or has obtained a certificate of need to establish a nursing home; and (v) maintains a binding agreement with the department assuring that financial liability for services to members, including nursing home services, shall not fall upon the department; and (vi) does not operate, and has not undertaken, a project which would result in a number of nursing home beds in excess of one for every four living units operated by the continuing care retirement community, exclusive of nursing home beds; and (vii) has undertaken no increase in the total number of nursing home beds after January 1, 1988, unless a professional review of pricing and long-term solvency was obtained

by the retirement community within the prior five years and fully disclosed to members.

~~((8))~~ (9) "Health maintenance organization" means a public or private organization, organized under the laws of the state, which:

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

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

~~((9))~~ (10) "Health services" means clinically related (i.e., preventive, diagnostic, curative, rehabilitative, or palliative) services and includes alcoholism, drug abuse, and mental health services and as defined in federal law.

~~((10))~~ (11) "Health service area" means a geographic region appropriate for effective health planning which includes a broad range of health services and a population of at least four hundred fifty thousand persons.

~~((11))~~ (12) "Institutional health services" means health services provided in or through health care facilities and entailing annual operating costs of at least five hundred thousand dollars adjusted by the department by rule to reflect changes in the United States department of commerce composite construction cost index; or a lesser amount required by federal law and established by the department by rule: PROVIDED, That no new health care facility may be initiated as an institutional health service.

~~((12))~~ (13) "Major medical equipment" means medical equipment which is used for the provision of medical and other health services and which costs in excess of one million dollars, adjusted by the department by rule to reflect changes in the United States department of commerce composite construction cost index; or a lesser amount required by federal law and established by the department by rule; except that such term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under Title XVIII of the Social Security Act to meet the requirements of paragraphs (10) and (11) of section 1861(s) of such act(;-);

~~((+3))~~ (14) "Person" means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and insurance companies), the state, or a political subdivision or instrumentality of the state, including a municipal corporation or a hospital district.

~~((+4))~~ (15) "Provider" generally means a health care professional or an organization, institution, or other entity providing health care but the precise definition for this term shall be established by rule of the department, consistent with federal law.

~~((+5))~~ (16) "Public health" means the level of well-being of the general population; those actions in a community necessary to preserve, protect, and promote the health of the people for which government is responsible; and the governmental system developed to guarantee the preservation of the health of the people.

~~((+6))~~ (17) "Regional health council" means a public regional planning body or a private nonprofit corporation which is organized and operated in a manner that is consistent with the laws of the state and which is capable of performing each of the functions described in RCW 70.38.085. A regional health council shall have a governing body for health planning which is composed of a majority (but not more than sixty percent of the members) of persons who are residents of the health service area served by the entity; who are consumers of health care; who are broadly representative of the social, economic, linguistic, and racial populations, and geographic areas of the health service area, and major purchasers of health care; and who are not, nor within the twelve months preceding appointment have been, providers of health care. The remainder of the members shall be residents of the health service area served by the agency who are providers of health care.

~~((+7))~~ (18) "Regional health plan" means a document which provides at least a statement of health goals and priorities for the health service area. In addition, it sets forth the number, type, and distribution of health facilities, services, and manpower needed within the health service area to meet the goals of the plan.

~~((+8))~~ (19) "State health plan" means a document developed in accordance with RCW 70.38.065.

Passed the House February 11, 1988.

Passed the Senate February 29, 1988.

Approved by the Governor March 11, 1988.

Filed in Office of Secretary of State March 11, 1988.

CHAPTER 21

[Senate Bill No. 6296]

PORTS OF ENTRY—STATE PATROL AUTHORITY

AN ACT Relating to the state patrol; and adding a new section to chapter 43.43 RCW.