



Certificate of Need Rulemaking Workshop
Washington State Hospital Association Comments

We have not fully articulated our position. What we are offering are initial thoughts.

P. 10 “any public or private corporation”

- What does this mean? What was the department trying to accomplish with this change in definition?

p. 12 “sale, purchase, or lease” definition

- “Sale, purchase, and lease” are statutory terms that have a plain meaning.
- This definition is contrary to the CoN statute.
- The change in definition is also contrary to nearly three decades of interpretation of the CoN law about what should and should not be reviewed.
- We believe the question of what to review is a policy question, not a regulatory question. This issue is one that should be debated in the legislature, not addressed in regulation.

p. 14 Hospital policy collection

- This seems outside the scope of the CoN law, except perhaps when the Department is actually reviewing a transaction. Our fundamental comment is that this is not a proposal that is supported by the statute.
- Despite our belief that the routine collection of these policies would be outside the scope of CoN, we want to take the opportunity to comment on how it is currently drafted. We believe the way it is drafted is likely much broader than intended. We suspect the department’s intention was specifically to document abortion services and Death with Dignity Act services, but the effect is far broader. We point in particular to the requirement for policies on admissions and creation of lists about services “authorized by law” that are not provided in a hospital.

- Many health services are “authorized by law” in some way. The law regulates trauma care, cardiac care, podiatry, acupuncture, midwifery, transplants, and many other services. In some cases, that regulation actually prohibits hospitals from providing certain services – for example, trauma care beyond the hospital’s capability or invasive cardiac care. In other cases, the hospital clearly does not have the capacity to provide a service – for example, very few hospitals provide transplant services. There is wide variation among hospitals about services offered and services not offered, and which patients a hospital can and will admit. The way we read this is that hospitals could be required to create exhaustive – and probably unknowable - lists about everything they do and do not offer, and every service they will and will not admit a patient to receive.
- This requirement has the potential to create extraordinary administrative burden with very little value to the patient. Patients would have great difficulty wading through complicated hospital policies. We offer the analogous situation of health care providers’ Notice of Privacy Practices that every provider is required to provide. We believe very few patients read this document and even fewer understand it. The policy collection proposed here has the potential to be equally unhelpful.
- The nuances in direct care delivery, specific clinical considerations, and the physician-patient relationship are not reflected in the requirement for a specific list. Delivery of health services is often flexible. We also have a concern that in many cases what is and what is not offered is not a hard line, black-and-white decision.

Thank you for your consideration of our comments and the opportunity to participate in the process.

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