

**RCW 70.38.260 Certain hospitals not subject to certificate of need requirements for the addition of the number of new psychiatric beds. (Expires June 30, 2029.)**

(1) For a grant awarded during fiscal years 2018 and 2019 by the department of commerce under this section, hospitals licensed under chapter 70.41 RCW and behavioral health hospitals licensed as establishments under chapter 71.12 RCW are not subject to certificate of need requirements for the addition of the number of new psychiatric beds indicated in the grant. The department of commerce may not make a prior approval of a certificate of need application a condition for a grant application under this section. The period during which an approved hospital or behavioral health hospital project qualifies for a certificate of need exemption under this section is two years from the date of the grant award.

(2) (a) Until June 30, 2028, a hospital licensed under chapter 70.41 RCW is exempt from certificate of need requirements for the addition of new psychiatric beds.

(b) A hospital that adds new psychiatric beds under this subsection (2) must:

(i) Notify the department of the addition of new psychiatric beds. The department shall provide the hospital with a notice of exemption within 30 days; and

(ii) Commence the project within two years of the date of receipt of the notice of exemption.

(c) Beds granted an exemption under RCW 70.38.111(11)(b) must remain psychiatric beds unless a certificate of need is granted to change their use or the hospital voluntarily reduces its licensed capacity.

(3) (a) Until June 30, 2028, a behavioral health hospital licensed as an establishment under chapter 71.12 RCW is exempt from certificate of need requirements for the one-time addition of up to 30 new psychiatric beds devoted solely for 90-day and 180-day civil commitment services and for the one-time addition of up to 30 new voluntary psychiatric beds or involuntary psychiatric beds for patients on a 120 hour detention or 14-day civil commitment order, if the hospital makes a commitment to maintain a payer mix of at least 50 percent medicare and medicaid based on a calculation using patient days for a period of five consecutive years after the beds are made available for use by patients, if it demonstrates to the satisfaction of the department:

(i) That its most recent two years of publicly available fiscal year-end report data as required under RCW 43.70.050 reported to the department by the behavioral health hospital, show a payer mix of a minimum of 50 percent medicare and medicaid based on a calculation using patient days; and

(ii) A commitment to maintaining the payer mix in (a) of this subsection for a period of five consecutive years after the beds are made available for use by patients.

(b) A behavioral health hospital that adds new psychiatric beds under this subsection (3) must:

(i) Notify the department of the addition of new psychiatric beds. The department shall provide the behavioral health hospital with a notice of exemption within 30 days; and

(ii) Commence the project within two years of the date of receipt of the notice of exemption.

(c) Beds granted an exemption under RCW 70.38.111(11)(b) must remain the types of psychiatric beds indicated to the department in the original exemption application unless a certificate of need is

granted to change their use or the behavioral health hospital voluntarily reduces its licensed capacity.

(4) (a) Until June 30, 2028, an entity seeking to construct, develop, or establish a behavioral health hospital licensed as an establishment under chapter 71.12 RCW is exempt from certificate of need requirements if the proposed behavioral health hospital will have no more than 16 beds and dedicate a portion of the beds to providing treatment to adults on 90 or 180-day involuntary commitment orders. The behavioral health hospital may also provide treatment to adults on a 120 hour detention or 14-day involuntary commitment order.

(b) An entity that seeks to construct, develop, or establish a behavioral health hospital under this subsection (4) must:

(i) Notify the department of the addition of construction, development, or establishment. The department shall provide the entity with a notice of exemption within 30 days; and

(ii) Commence the project within two years of the date of receipt of the notice of exemption.

(c) Entities granted an exemption under RCW 70.38.111(11)(b)(ii) may not exceed 16 beds unless a certificate of need is granted to increase the behavioral health hospital's capacity.

(5) This section expires June 30, 2029. [2024 c 165 s 2; 2024 c 121 s 24; 2021 c 277 s 2; 2019 c 324 s 9; 2017 c 199 s 2; 2015 3rd sp.s. c 22 s 2.]

**Reviser's note:** This section was amended by 2024 c 121 s 24 and by 2024 c 165 s 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective date—2021 c 277:** See note following RCW 70.38.111.

**Findings—Intent—2019 c 324:** See note following RCW 71.24.648.

**Mental health drop-in center services pilot program—2019 c 324:** See note following RCW 71.24.649.

**Report—2019 c 324:** See note following RCW 70.38.111.

**Recommendations—Residential intensive behavioral health and developmental disability services—2019 c 324:** See note following RCW 74.39A.030.

**Effective date—2017 c 199:** See note following RCW 70.38.111.

**Intent—2015 3rd sp.s. c 22:** "To accommodate the urgent need for inpatient psychiatric services and to facilitate state compliance with the Washington state supreme court decision, In re the Detention of D.W., No. 90110-4, August 7, 2014, which prohibits the practice of psychiatric boarding, the legislature intends to exempt certain hospital mental health projects provided grant funding by the department of commerce from certificate of need requirements." [2015 3rd sp.s. c 22 s 1.]

**Effective date—2015 3rd sp.s. c 22:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions,

and takes effect immediately [July 6, 2015]." [2015 3rd sp.s. c 22 s  
4.]