

JAY INSLEE  
Governor



STATE OF WASHINGTON  
OFFICE OF THE GOVERNOR

*P.O. Box 40002 • Olympia, Washington 98504-0002 • (360) 902-4111 • [www.governor.wa.gov](http://www.governor.wa.gov)*

**DIRECTIVE OF THE GOVERNOR  
13-12**

June 28, 2013

To: Washington State Department of Health

From: Jay Inslee, Governor

Subject: Modernizing the Certificate of Need Process and Ensuring Greater Consumer Transparency with Regard to Health Care Facility Actions and Policies

Health care facilities have a leading role in the delivery of health care across Washington State. As recognized in RCW 70.38.015, the Certificate of Need program is an important component in the health resources strategy to promote, maintain, and ensure the health of all citizens in the state by providing accessible health services, health facilities, and other resources.

Washington is poised to fully implement health reform. The state has made important changes in the structure of those state agencies involved in providing health care service, including the Health Care Authority. We have also seen changes in the private health care delivery marketplace, including the structuring of new relationships among health care facilities, provider systems, and insurers.

However, the Certificate of Need process, as set forth in chapter 70.38 RCW and chapter 246-310 WAC, has not kept current with the changes in the health care delivery system in preparation for the implementation of health reform in Washington.

Therefore, I am directing Washington State Department of Health (Department) to commence rulemaking in an expeditious and efficient manner, consistent with the processes in chapter 34.05 RCW. The Department shall consider how the structure of affiliations, corporate restructuring, mergers, and other arrangements among health care facilities results in outcomes similar to the traditional methods of sales, purchasing, and leasing of hospitals, particularly when control of part or all of an existing hospital changes from one party to another.

The Certificate of Need process should be applied based on the effect that these transactions have on the accessibility of health services, cost containment, and quality, rather than on the terminology used in describing the transactions or the representations made in the preliminary documents.

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The Department's rulemaking process shall also consider ways to improve transparency for consumer information and ease of use, specifically the Department shall ensure hospitals supply non-discrimination, end of life care and reproductive health care policies; and the Department shall ensure that consumers have access to the policies on its webpage. The Department's rulemaking process shall also consider the factors in RCW 43.06.155, the principles and policies in the implementation of health reform, including the guarantee of choice for patients.

No later than July 3, 2013, the Department will initiate rule-making by filing a CR 101 with the Code Reviser's Office, commencing the rulemaking process. By October 31, 2013, the Department will provide a report to the Governor of the status of the rulemaking process.