

Hospitals earn victory in state Supreme Court over certificate of need rule

Skagit Valley Herald staff

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Washington hospitals, such as Skagit Valley Hospital, earned a victory Thursday when the state Supreme Court struck down a state Department of Health rule on certificate of need review. Scott Terrell / Skagit Valley Herald

Washington hospitals earned a victory in court Thursday morning when the state Supreme Court struck down a state Department of Health rule that had expanded the types of ownership changes subject to certificate of need review.

“We hold that the department exceeded its statutory authority in promulgating the New Rule and the New Rule is consequentially invalid,” the Court said in its opinion.

The certificate of need program was enacted by the state Legislature in 1979 to keep medical facilities from needlessly adding or expanding services that already existed.

But in 2013, the Department of Health added a rule to the program that requires hospitals to ask the state for permission anytime there’s a change in control within a hospital.

The added rule is what sparked the court case.

“We are very pleased with the decision of the Washington State Supreme Court with regard to the state’s certificate of need rules,” Skagit Regional Health CEO Gregg Davidson said in a news release. “The baseline rules for certificate of need remain in place, designed to make sure there is access to health care services and facilities while keeping costs down.”

Jim Barnhart, CAO of PeaceHealth United General Medical Center in Sedro-Woolley, said he also agrees with the Supreme Court’s ruling.

“I think it is the right ruling,” Barnhart said. “I’m glad the court ruled the way it did. The mere (Department of Health) ruling stretched beyond intent of the original statute. I think the process works and it was upheld.”

The Washington State Hospital Association, which took the Department of Health to court, was also happy with the decision.

“We are extremely glad to have the Supreme Court’s ruling resolve this issue,” WSHA President and CEO Scott Bond said in a news release. “At a time when the Affordable Care Act is pushing health care providers to improve quality and reduce costs through affiliations and partnerships, it does not make sense to create new barriers. Now that we have clarity on the legal issues, we can all move forward.”

The Washington State Hospital Association argued the rule that was added in 2013 was too vague and could be interpreted to include anything from changes in how facilities do bookkeeping to who provides laundry services.

Then there was the issue of cost and time in getting certificates of need approved. They cost a minimum of \$40,000 and can take months or years before they are completed.

“The rule was too big for the law,” said Mary Kay Clunies-Ross, spokesman for the hospital association. “What I mean by that is the rules have to be based in what the law says and they can’t exceed the scope of the way. The rule was too broad while the law was specific.”

Rule changes within agencies are a common occurrence, and there’s nothing wrong with that, Clunies-Ross said.

But if a medical facility had to apply for a certificate of need when partnering, affiliating or merging with another entity, then the process, which is supposed to benefit patients, is slowed down, she said.

This certificate of need case began in 2014, when the state hospital group sued the Department of Health in Thurston County Superior Court and won.

The Department of Health then appealed to the state Supreme Court.

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