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Concerned About Costs, Congress Pushes Curbs on Doctor-Owned Hospitals

By [ROBERT PEAR](#)

[WASHINGTON](#) — For years, Democrats have been trying to stop the proliferation of doctor-owned [hospitals](#), in the belief that they drive up costs by encouraging doctors to order more procedures.

Now Democrats in Congress are moving to impose new restrictions on these for-profit hospitals, but they have carved out exemptions for a few institutions represented by influential senators and well-connected lobbyists.

Senator [Patty Murray](#) of Washington, a member of the Appropriations Committee and the Senate Democratic leadership, secured a special dispensation to help Wenatchee Valley Medical Center, in rural Wenatchee, Wash. The provision was included in a bill that was passed recently by the Senate and is coming up soon in the House.

Without Mrs. Murray's help, the hospital says, it might have been forced to close its doors or sell 60 percent of its stock, all of which is now owned by doctors. Mrs. Murray said the hospital deserved an exemption because it was "a bedrock of health care in the local community."

Senator Herb Kohl, Democrat of Wisconsin, persuaded the Appropriations Committee and the full Senate to accept legislative language benefiting Aurora BayCare Medical Center in Green Bay.

The hospital's lobbyists include Theodore H. Bornstein, a former chief of staff for Mr. Kohl, and Bill Broydrick, whose Web site quotes a description of him as "the state's No. 1 super lobbyist."

The Kohl provision would allow the Green Bay hospital to expand by building a new [cardiac catheterization](#) laboratory.

The issue often puts lawmakers in the awkward position of having to choose between doctors and hospitals.

Critics say that when doctors have a financial stake in a hospital, they have an incentive to send patients there because they not only receive professional fees for their services,

but also can share in hospital profits and see the value of their investment increase. Such arrangements can lead to greater use of hospital services and higher costs for [Medicare](#) and other insurers, say the critics, including many in Congress.

On three occasions in the last 10 months, either the House or the Senate has approved legislation that would bar doctors from referring Medicare and [Medicaid](#) patients to hospitals in which the doctors have an ownership interest. None of the proposals have gotten all the way through the legislative process.

The House approved the restrictions twice, as part of a child health bill in August and a [mental health](#) bill in March. The Senate approved the restrictions last month, in a bill providing money for the Iraq war and various domestic programs.

With the House poised to take up the war spending bill in the next few days, the issue is heating up again.

The special treatment for a handful of hospitals has drawn criticism from conservative Republicans, who support unfettered growth of doctor-owned hospitals, and liberal Democrats, who favor stringent rules with no exceptions.

“If the members of the Senate really believe that specialty hospitals are harmful, then there should not be earmarks protecting the specialty hospitals in home states of certain members of the Appropriations Committee,” said Senator [Tom Coburn](#), Republican of Oklahoma.

Representative Pete Stark, the California Democrat who is chairman of the Ways and Means Subcommittee on Health, said he would prefer not to exempt any doctor-owned hospitals.

“Once you start making exceptions,” Mr. Stark said, “everybody lines up and says ‘me too.’ Then you go hospital by hospital, and that’s a political nightmare.”

The White House opposes the limits on doctor-owned hospitals, saying they “could restrict patient choice without decreasing Medicare costs” — a view shared by the [American Medical Association](#).

But Representative [Frank Pallone Jr.](#), the New Jersey Democrat who is chairman of the Energy and Commerce Subcommittee on Health, defended the restrictions.

“Physician-owned hospitals are a problem because they are being overutilized,” Mr. Pallone said recently on the House floor. “Physicians are referring patients to these hospitals in many cases for unnecessary procedures.”

The American Hospital Association, which represents 5,000 hospitals of all types, supports the proposal.

Doctor-owned hospitals “create a potential conflict of interest between a patient’s health care needs and the physician’s financial interests,” said Richard J. Pollack, executive vice president of the hospital association. Moreover, he said, doctor-owned specialty hospitals tend to skim off the more profitable cases, “siphoning resources away from full-service community hospitals.”

Many of the newer doctor-owned hospitals have been established by orthopedists, cardiologists and surgeons, who say they are tired of wrangling with hospital bureaucrats and want more control over the quality of care. Doctors say specialty hospitals can be more efficient than general hospitals because they focus on a limited set of procedures.

But the inspector general of the [Department of Health and Human Services](#) has found that some doctor-owned hospitals are not equipped to handle complications requiring emergency care.

The government considers a hospital to be doctor-owned if doctors hold any financial stake in it. Many are built through joint ventures, with the doctors’ share in the range of 45 percent to 50 percent.

Dr. David L. Weber, chief executive of the Wenatchee Valley Medical Center, said the proposed restrictions “would be devastating to our hospital” without the exemption obtained by Mrs. Murray.

The 20-bed Wenatchee hospital is the hub of a rural health care network serving a region of 12,000 square miles, Dr. Weber said. While the hospital does not have an emergency department, he said, it is “in the process of building one, so we will be more of a full-service hospital.”

The Senate bill, like the House version, generally prohibits doctor-owned hospitals from expanding their capacity by adding beds or operating rooms. But it makes an exception for hospitals that meet five criteria dealing with factors like local population growth and the ratio of hospital beds to population in the state.

Industry experts estimate that only eight or nine hospitals, including the one in Green Bay, could meet these criteria.

Rohit Mahajan, a spokesman for Mr. Kohl, said the senator generally supported efforts to limit doctor-owned specialty hospitals. But in imposing such limits, he said, Congress must not cripple full-service hospitals like Aurora BayCare.

Mr. Stark said that if doctors did not like the proposed restrictions, they could sell their interest in a hospital to other investors, nonprofit groups or foundations.

But Representative Michael C. Burgess, a Texas Republican and an obstetrician-gynecologist, said Congress should “keep its hands off” doctor-owned hospitals.

“This is a free country,” Mr. Burgess said. “If you want to invest in a hospital, if you are willing to put personal capital at risk, you should not be forbidden to do so just because you are a doctor.”