
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1330

State of Washington

54th Legislature

1995 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Dyer, Dellwo and Backlund; by request of Department of Health)

Read first time 03/06/95.

1 AN ACT Relating to health facilities and services; amending RCW
2 70.38.025, 70.38.105, 70.38.115, 70.38.135, and 18.106.010; adding a
3 new chapter to Title 70 RCW; creating new sections; decodifying RCW
4 70.38.155, 70.38.156, 70.38.157, 70.38.914, 70.38.915, 70.38.916,
5 70.38.917, 70.38.918, and 70.38.919; repealing RCW 70.38.095;
6 prescribing penalties; providing effective dates; and declaring an
7 emergency.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 **Sec. 1.** RCW 70.38.025 and 1991 c 158 s 1 are each amended to read
10 as follows:

11 When used in this chapter, the terms defined in this section shall
12 have the meanings indicated.

13 (1) "Board of health" means the state board of health created
14 pursuant to chapter 43.20 RCW.

15 (2) "Capital expenditure" is an expenditure, including a force
16 account expenditure (i.e., an expenditure for a construction project
17 undertaken by a nursing home facility as its own contractor) which,
18 under generally accepted accounting principles, is not properly
19 chargeable as an expense of operation or maintenance. Where a person

1 makes an acquisition under lease or comparable arrangement, or through
2 donation, which would have required review if the acquisition had been
3 made by purchase, such expenditure shall be deemed a capital
4 expenditure. Capital expenditures include donations of equipment or
5 facilities to a nursing home facility which if acquired directly by
6 such facility would be subject to certificate of need review under the
7 provisions of this chapter and transfer of equipment or facilities for
8 less than fair market value if a transfer of the equipment or
9 facilities at fair market value would be subject to such review. The
10 cost of any studies, surveys, designs, plans, working drawings,
11 specifications, and other activities essential to the acquisition,
12 improvement, expansion, or replacement of any plant or equipment with
13 respect to which such expenditure is made shall be included in
14 determining the amount of the expenditure.

15 (3) "Continuing care retirement community" means an entity which
16 provides shelter and services under continuing care contracts with its
17 members and which sponsors or includes a health care facility or a
18 health service. A "continuing care contract" means a contract to
19 provide a person, for the duration of that person's life or for a term
20 in excess of one year, shelter along with nursing, medical, health-
21 related, or personal care services, which is conditioned upon the
22 transfer of property, the payment of an entrance fee to the provider of
23 such services, or the payment of periodic charges for the care and
24 services involved. A continuing care contract is not excluded from
25 this definition because the contract is mutually terminable or because
26 shelter and services are not provided at the same location.

27 (4) "Department" means the department of health.

28 (5) "Expenditure minimum" means, for the purposes of the
29 certificate of need program, one million dollars adjusted by the
30 department by rule to reflect changes in the United States department
31 of commerce composite construction cost index; or a lesser amount
32 required by federal law and established by the department by rule.

33 (6) "Health care facility" means hospices, (~~((hospitals, psychiatric~~
34 ~~hospitals,))~~ nursing homes, kidney disease treatment centers,
35 (~~((ambulatory surgical facilities,))~~) and home health agencies except a
36 home health agency operated by the smaller public hospital district
37 based on assessed valuation in a county with a population of under
38 twenty thousand with two public hospital districts serving the entire
39 county, and includes such facilities when owned and operated by a

1 political subdivision or instrumentality of the state and such other
2 facilities as required by federal law and implementing regulations, but
3 does not include Christian Science sanatoriums operated, listed, or
4 certified by the First Church of Christ Scientist, Boston,
5 Massachusetts. In addition, the term does not include any nonprofit
6 hospital: (a) Which is operated exclusively to provide health care
7 services for children; (b) which does not charge fees for such
8 services; and (c) if not contrary to federal law as necessary to the
9 receipt of federal funds by the state.

10 (7) "Health maintenance organization" means a public or private
11 organization, organized under the laws of the state, which:

12 (a) Is a qualified health maintenance organization under Title
13 XIII, section 1310(d) of the Public Health Services Act; or

14 (b)(i) Provides or otherwise makes available to enrolled
15 participants health care services, including at least the following
16 basic health care services: Usual physician services, hospitalization,
17 laboratory, x-ray, emergency, and preventive services, and out-of-area
18 coverage; (ii) is compensated (except for copayments) for the provision
19 of the basic health care services listed in (b)(i) to enrolled
20 participants by a payment which is paid on a periodic basis without
21 regard to the date the health care services are provided and which is
22 fixed without regard to the frequency, extent, or kind of health
23 service actually provided; and (iii) provides physicians' services
24 primarily (A) directly through physicians who are either employees or
25 partners of such organization, or (B) through arrangements with
26 individual physicians or one or more groups of physicians (organized on
27 a group practice or individual practice basis).

28 (8) "Health services" means clinically related (i.e., preventive,
29 diagnostic, curative, rehabilitative, or palliative) services and
30 includes alcoholism, drug abuse, and mental health services and as
31 defined in federal law.

32 (9) "Health service area" means a geographic region appropriate for
33 effective health planning which includes a broad range of health
34 services.

35 (10) "Person" means an individual, a trust or estate, a
36 partnership, a corporation (including associations, joint stock
37 companies, and insurance companies), the state, or a political
38 subdivision or instrumentality of the state, including a municipal
39 corporation or a hospital district.

1 (11) "Provider" (~~((generally))~~) means a health care professional or
2 an organization, institution, or other entity providing health care
3 (~~((but the precise definition for this term shall be established by rule~~
4 ~~of the department, consistent with federal law))~~).

5 (12) "Public health" means the level of well-being of the general
6 population; those actions in a community necessary to preserve,
7 protect, and promote the health of the people for which government is
8 responsible; and the governmental system developed to guarantee the
9 preservation of the health of the people.

10 (13) "Secretary" means the secretary of health or the secretary's
11 designee.

12 (14) "Tertiary health service" means a specialized service that
13 meets complicated medical needs of people and requires sufficient
14 patient volume to optimize provider effectiveness, quality of service,
15 and improved outcomes of care.

16 (~~((15) "Hospital" means any health care institution which is~~
17 ~~required to qualify for a license under RCW 70.41.020(2); or as a~~
18 ~~psychiatric hospital under chapter 71.12 RCW.)~~)

19 **Sec. 2.** RCW 70.38.105 and 1992 c 27 s 1 are each amended to read
20 as follows:

21 (1) The department is authorized and directed to implement the
22 certificate of need program in this state pursuant to the provisions of
23 this chapter.

24 (2) There shall be a state certificate of need program which is
25 administered consistent with the requirements of federal law as
26 necessary to the receipt of federal funds by the state.

27 (3) No person shall engage in any undertaking which is subject to
28 certificate of need review under subsection (4) of this section without
29 first having received from the department either a certificate of need
30 or an exception granted in accordance with this chapter.

31 (4) The following shall be subject to certificate of need review
32 under this chapter:

33 (a) The construction, development, or other establishment of a new
34 health care facility;

35 (b) (~~The sale, purchase, or lease of part or all of any existing~~
36 ~~hospital as defined in RCW 70.38.025;~~

37 ~~(c))~~) Any capital expenditure for the construction, renovation, or
38 alteration of a nursing home which substantially changes the services

1 of the facility (~~(after January 1, 1981,)~~) provided that the
2 substantial changes in services are specified by the department in
3 rule;

4 (~~(d)~~) (c) Any capital expenditure for the construction,
5 renovation, or alteration of a nursing home which exceeds the
6 expenditure minimum as defined by RCW 70.38.025. However, a capital
7 expenditure which is not subject to certificate of need review under
8 (a), (b), (~~(e),~~) or (~~(e)~~) (d) of this subsection and which is
9 solely for any one or more of the following is not subject to
10 certificate of need review except to the extent required by the federal
11 government as a condition to receipt of federal assistance and does not
12 substantially affect patient charges:

13 (i) Communications and parking facilities;

14 (ii) Mechanical, electrical, ventilation, heating, and air
15 conditioning systems;

16 (iii) Energy conservation systems;

17 (iv) Repairs to, or the correction of, deficiencies in existing
18 physical plant facilities which are necessary to maintain state
19 licensure;

20 (v) Acquisition of equipment, including data processing equipment,
21 which is not or will not be used in the direct provision of health
22 services;

23 (vi) Construction which involves physical plant facilities,
24 including administrative and support facilities, which are not or will
25 not be used for the provision of health services;

26 (vii) Acquisition of land; and

27 (viii) Refinancing of existing debt;

28 (~~(e)~~) (d) A change in bed capacity of a health care facility
29 which increases the total number of licensed beds or redistributes beds
30 among acute care, nursing home care, and boarding home care if the bed
31 redistribution is to be effective for a period in excess of six months,
32 or a change in bed capacity of a rural health care facility licensed
33 under RCW 70.175.100 that increases the total number of nursing home
34 beds or redistributes beds from acute care or boarding home care to
35 nursing home care if the bed redistribution is to be effective for a
36 period in excess of six months;

37 (~~(f)~~) (e) Any new tertiary health services which are offered in
38 or through a health care facility or rural health care facility
39 licensed under RCW 70.175.100(~~(, and which were not offered on a~~

1 regular basis by, in, or through such health care facility or rural
2 health care facility within the twelve month period prior to the time
3 such services would be offered;

4 (g) Any expenditure for the construction, renovation, or alteration
5 of a nursing home or change in nursing home services in excess of the
6 expenditure minimum made in preparation for any undertaking under
7 subsection (4) of this section and any arrangement or commitment made
8 for financing such undertaking. Expenditures of preparation shall
9 include expenditures for architectural designs, plans, working
10 drawings, and specifications. The department may issue certificates of
11 need permitting predevelopment expenditures, only, without authorizing
12 any subsequent undertaking with respect to which such predevelopment
13 expenditures are made)); and

14 (({h})) (f) Any increase in the number of dialysis stations in a
15 kidney disease center.

16 (5) The department is authorized to charge fees for the review of
17 certificate of need applications and requests for exemptions from
18 certificate of need review. The fees shall be sufficient to cover the
19 full cost of review and exemption, which may include the development of
20 standards, criteria, and policies.

21 (6) No person may divide a project in order to avoid review
22 requirements under any of the thresholds specified in this section.

23 **Sec. 3.** RCW 70.38.115 and 1993 c 508 s 6 are each amended to read
24 as follows:

25 (1) Certificates of need shall be issued, denied, suspended, or
26 revoked by the designee of the secretary in accord with the provisions
27 of this chapter and rules of the department which establish review
28 procedures and criteria for the certificate of need program.

29 (2) Criteria for the review of certificate of need applications,
30 except as provided in subsection (3) of this section for health
31 maintenance organizations, shall include but not be limited to
32 consideration of the following:

33 (a) The need that the population served or to be served by such
34 services has for such services;

35 (b) The availability of less costly or more effective alternative
36 methods of providing such services;

1 (c) The financial feasibility and the probable impact of the
2 proposal on the cost of and charges for providing health services in
3 the community to be served;

4 (d) In the case of health services to be provided, (i) the
5 availability of alternative uses of project resources for the provision
6 of other health services, (ii) the extent to which such proposed
7 services will be accessible to all residents of the area to be served,
8 and (iii) the need for and the availability in the community of
9 services and facilities for osteopathic and allopathic physicians and
10 their patients. The department shall consider the application in terms
11 of its impact on existing and proposed institutional training programs
12 for doctors of osteopathy and medicine at the student, internship, and
13 residency training levels;

14 (e) In the case of a construction project, the costs and methods of
15 the proposed construction, including the cost and methods of energy
16 provision, and the probable impact of the construction project reviewed
17 (i) on the cost of providing health services by the person proposing
18 such construction project and (ii) on the cost and charges to the
19 public of providing health services by other persons;

20 ~~((The special needs and circumstances of osteopathic hospitals,
21 nonallopathic services and children's hospitals;~~

22 ~~(g))~~ Improvements or innovations in the financing and delivery of
23 health services which foster cost containment and serve to promote
24 quality assurance and cost-effectiveness;

25 ~~((h))~~ (g) In the case of health services proposed to be provided,
26 the efficiency and appropriateness of the use of existing services and
27 facilities similar to those proposed;

28 ~~((i))~~ (h) In the case of existing services or facilities, the
29 quality of care provided by such services or facilities in the past;
30 and

31 ~~((j) In the case of hospital certificate of need applications,
32 whether the hospital meets or exceeds the regional average level of
33 charity care, as determined by the secretary; and~~

34 ~~(k))~~ (i) In the case of nursing home applications:

35 (i) The availability of other nursing home beds in the planning
36 area to be served; and

37 (ii) The availability of other services in the community to be
38 served. Data used to determine the availability of other services will

1 include but not be limited to data provided by the department of social
2 and health services.

3 (3) A certificate of need application of a health maintenance
4 organization or a health care facility which is controlled, directly or
5 indirectly, by a health maintenance organization, shall be approved by
6 the department if the department finds:

7 (a) Approval of such application is required to meet the needs of
8 the members of the health maintenance organization and of the new
9 members which such organization can reasonably be expected to enroll;
10 and

11 (b) The health maintenance organization is unable to provide,
12 through services or facilities which can reasonably be expected to be
13 available to the organization, its health services in a reasonable and
14 cost-effective manner which is consistent with the basic method of
15 operation of the organization and which makes such services available
16 on a long-term basis through physicians and other health professionals
17 associated with it.

18 A health care facility, or any part thereof, with respect to which
19 a certificate of need was issued under this subsection may not be sold
20 or leased and a controlling interest in such facility or in a lease of
21 such facility may not be acquired unless the department issues a
22 certificate of need approving the sale, acquisition, or lease.

23 (4) (~~Until the final expiration of the state health plan as~~
24 ~~provided under RCW 70.38.919, the decision of the department on a~~
25 ~~certificate of need application shall be consistent with the state~~
26 ~~health plan in effect, except in emergency circumstances which pose a~~
27 ~~threat to the public health.)) The department in making its final
28 decision may issue a conditional certificate of need if it finds that
29 the project is justified only under specific circumstances. The
30 conditions shall directly relate to the project being reviewed. The
31 conditions may be released if it can be substantiated that the
32 conditions are no longer valid and the release of such conditions would
33 be consistent with the purposes of this chapter.~~

34 (5) Criteria adopted for review in accordance with subsection (2)
35 of this section may vary according to the purpose for which the
36 particular review is being conducted or the type of health service
37 reviewed.

38 (6) The department shall specify information to be required for
39 certificate of need applications. Within fifteen days of receipt of

1 the application, the department shall request additional information
2 considered necessary to the application or start the review process.
3 Applicants may decline to submit requested information through written
4 notice to the department, in which case review starts on the date of
5 receipt of the notice. Applications may be denied or limited because
6 of failure to submit required and necessary information.

7 (7) Concurrent review is for the purpose of comparative analysis
8 and evaluation of competing or similar projects in order to determine
9 which of the projects may best meet identified needs. Categories of
10 projects subject to concurrent review include at least new health care
11 facilities, new services, and expansion of existing health care
12 facilities. The department shall specify time periods for the
13 submission of applications for certificates of need subject to
14 concurrent review, which shall not exceed ninety days. Review of
15 concurrent applications shall start fifteen days after the conclusion
16 of the time period for submission of applications subject to concurrent
17 review. Concurrent review periods shall be limited to one hundred
18 fifty days, except as provided for in rules adopted by the department
19 authorizing and limiting amendment during the course of the review, or
20 for an unresolved pivotal issue declared by the department.

21 (8) Review periods for certificate of need applications other than
22 those subject to concurrent review shall be limited to ninety days.
23 Review periods may be extended up to thirty days if needed by a review
24 agency, and for unresolved pivotal issues the department may extend up
25 to an additional thirty days. A review may be extended in any case if
26 the applicant agrees to the extension.

27 (9) The department or its designee, shall conduct a public hearing
28 on a certificate of need application if requested, unless the review is
29 expedited or subject to emergency review. The department by rule shall
30 specify the period of time within which a public hearing must be
31 requested and requirements related to public notice of the hearing,
32 procedures, recordkeeping and related matters.

33 (10) Any applicant denied a certificate of need or whose
34 certificate of need has been suspended or revoked has the right to an
35 adjudicative proceeding. The proceeding is governed by chapter 34.05
36 RCW, the Administrative Procedure Act.

37 (11) An amended certificate of need shall be required for the
38 following modifications of an approved project:

39 ~~((a) A new service requiring review under this chapter;~~

1 ~~(b) An expansion of a service subject to review beyond that~~
2 ~~originally approved;~~

3 ~~(c) An increase in bed capacity;~~

4 ~~(d))~~) A significant reduction in the scope of a nursing home
5 project without a commensurate reduction in the cost of the nursing
6 home project, or a cost increase (as represented in bids on a nursing
7 home construction project or final cost estimates acceptable to the
8 person to whom the certificate of need was issued) if the total of such
9 increases exceeds twelve percent or fifty thousand dollars, whichever
10 is greater, over the maximum capital expenditure approved. The review
11 of reductions or cost increases shall be restricted to the continued
12 conformance of the nursing home project with the review criteria
13 pertaining to financial feasibility and cost containment.

14 (12) An application for a certificate of need for a nursing home
15 capital expenditure which is determined by the department to be
16 required to eliminate or prevent imminent safety hazards or correct
17 violations of applicable licensure and accreditation standards shall be
18 approved.

19 (13) In the case of an application for a certificate of need to
20 replace existing nursing home beds, all criteria must be met on the
21 same basis as an application for a certificate of need for a new
22 nursing home, except that the need criteria shall be deemed met if the
23 applicant is an existing licensee who proposes to replace existing beds
24 that the licensee has operated for at least one year with the same or
25 fewer number of beds in the same planning area. When an entire nursing
26 home ceases operation, its beds shall be treated as existing nursing
27 home beds for purposes of replacement for eight years or until a
28 certificate of need to replace them is issued, whichever occurs first.
29 However, the nursing home must give notice of its intent to retain the
30 beds to the department of health no later than thirty days after the
31 effective date of the facility's closure.

32 **Sec. 4.** RCW 70.38.135 and 1989 1st ex.s. c 9 s 607 are each
33 amended to read as follows:

34 The secretary shall have authority to:

35 (1) (~~Provide when needed~~) Contract for temporary or intermittent
36 services of experts or consultants or organizations (~~thereof, by~~
37 ~~contract, when such services are to be performed on a part time or fee-~~
38 ~~for service basis~~));

1 (2) Make or cause to be made such on-site surveys of health care or
2 medical facilities as may be necessary for the administration of the
3 certificate of need program;

4 ~~(3) ((Upon review of recommendations, if any, from the board of
5 health:~~

6 ~~(a))~~ Promulgate rules under which health care ~~((facilities))~~
7 providers doing business within the state shall submit to the
8 department such data ~~((related to health and health care))~~ as the
9 department finds necessary to the performance of its functions under
10 this chapter;

11 ~~((b))~~ (4) Promulgate rules pertaining to the maintenance and
12 operation of medical facilities which receive federal assistance under
13 the provisions of Title XVI;

14 ~~((c))~~ (5) Promulgate rules in implementation of the provisions of
15 this chapter, including the establishment of procedures for public
16 hearings for predecisions and post-decisions on applications for
17 certificate of need; and

18 ~~((d))~~ (6) Promulgate rules providing circumstances and procedures
19 of expedited certificate of need review if there has not been a
20 significant change in existing health facilities of the same type or in
21 the need for such health facilities and services(~~(~~

22 ~~(4) Grant allocated state funds to qualified entities, as defined
23 by the department, to fund not more than seventy five percent of the
24 costs of regional planning activities, excluding costs related to
25 review of applications for certificates of need, provided for in this
26 chapter or approved by the department; and~~

27 ~~(5) Contract with and provide reasonable reimbursement for
28 qualified entities to assist in determinations of certificates of
29 need)).~~

30 NEW SECTION. Sec. 5. RCW 70.38.155, 70.38.156, 70.38.157,
31 70.38.914, 70.38.915, 70.38.916, 70.38.917, 70.38.918, and 70.38.919
32 are each decodified.

33 NEW SECTION. Sec. 6. RCW 70.38.095 and 1979 ex.s. c 161 s 9 are
34 each repealed.

35 NEW SECTION. Sec. 7. The department of health, in cooperation
36 with the house of representatives health care committee, shall evaluate

1 the state's future role in identifying and evaluating community needs
2 and capacity for health facilities and services. By December 1, 1995,
3 the department shall provide recommendations on what, if any, system
4 needs to be maintained that assists communities to make informed
5 decisions regarding the need for future services and facilities. The
6 study shall include, but not be limited to, evaluating data from other
7 states that have discontinued certificate of need, evaluate appropriate
8 levels and provision of charity care in acute settings, looking at such
9 factors as medicaid/medicare reimbursement rates, usage rates of
10 facilities according to population and payer factors, and other
11 indirect indicators of changes in accessibility and quality.

12 NEW SECTION. **Sec. 8.** (1) The enactment of this act shall not have
13 the effect of terminating, or in any way modifying, the validity of any
14 certificate of need that shall already have been issued before July 1,
15 1996.

16 (2) Any certificate of need application that was submitted and
17 declared complete, but upon which final action had not been taken
18 before July 1, 1996, shall be renewed and action taken based on chapter
19 70.38 RCW as in effect before July 1, 1996.

20 NEW SECTION. **Sec. 9.** If any part of this act is found to be in
21 conflict with federal requirements that are a prescribed condition to
22 the allocation of federal funds to the state, the conflicting part of
23 this act is inoperative solely to the extent of the conflict and with
24 respect to the agencies directly affected, and this finding does not
25 affect the operation of the remainder of this act in its application to
26 the agencies concerned. The rules under this act shall meet federal
27 requirements that are a necessary condition to the receipt of federal
28 funds by the state.

29 NEW SECTION. **Sec. 10.** If any provision of this act or its
30 application to any person or circumstance is held invalid, the
31 remainder of the act or the application of the provision to other
32 persons or circumstances is not affected.

33 NEW SECTION. **Sec. 11.** Sections 1 through 6 and 8 of this act
34 shall take effect July 1, 1996.

1 NEW SECTION. **Sec. 12.** The legislature finds that ambulatory
2 surgical centers have provided the citizens of Washington state access
3 to various routine surgical and similar invasive medical procedures not
4 requiring hospitalization, resulting in reduced health care costs
5 consistent with the intent of health care reform. However, the
6 delivery of these services may put patients at risk due to the invasive
7 nature of the procedures performed or the use of general anesthesia and
8 the short patient recovery time prior to discharge.

9 It is the intent of the legislature to protect the citizens of
10 Washington state by licensing ambulatory surgical centers and by
11 adopting and enforcing minimum standards for ambulatory surgical
12 centers. Standards established are intended to be the minimum
13 necessary to ensure a safe environment for the performance of surgical
14 procedures and to ensure safe and competent care of patients.

15 NEW SECTION. **Sec. 13.** Unless the context clearly requires
16 otherwise, the definitions in this section apply throughout this
17 chapter.

18 (1) "Ambulatory surgical center" means any freestanding distinct
19 entity that operates primarily for the purpose of performing surgical
20 procedures to treat patients not requiring in-patient hospital care
21 under normal circumstances, except:

22 (a) A health care facility otherwise licensed and regulated by the
23 department to provide surgical services, including an ambulatory
24 surgical facility operated by a hospital and regulated by the
25 department according to chapter 70.41 RCW;

26 (b) A facility in the offices of either an individual or group
27 practice of physicians licensed under chapter 18.71 RCW, osteopathic
28 physicians or surgeons licensed under chapter 18.57 RCW, or podiatric
29 physicians or surgeons licensed under chapter 18.22 RCW, including
30 where the facility is physically separate from such a practice, if the
31 privilege of using such a facility is not extended to such licensed
32 practitioners outside the individual or group practice. However, such
33 a facility may request licensure as an ambulatory surgical center if
34 the facility meets the requirements of this chapter and rules adopted
35 under this chapter; and

36 (c) A facility in which the services are provided solely by
37 dentists licensed under chapter 18.32 RCW and persons assisting or
38 under the supervision of dentists. However, such a facility may

1 request licensure as an ambulatory surgical center if the facility
2 meets the requirements of this chapter and rules adopted under this
3 chapter.

4 (2) "Department" means the department of health.

5 (3) "Person" means an individual, firm, partnership, corporation,
6 company, association, joint stock association, and the legal successor
7 thereof.

8 (4) "Surgical procedure" means an invasive medical procedure that:

9 (a) Utilizes a knife, laser, cautery, cryogenics, or chemicals; and

10 (b) Removes, corrects, or facilitates the diagnosis or cure of a
11 disease, process, or injury through that branch of medicine that treats
12 diseases, injuries, and deformities by manual or operative methods.

13 NEW SECTION. **Sec. 14.** (1) Nothing in this chapter shall be
14 construed in any manner to change or expand the scope of practice of a
15 health care practitioner.

16 (2) Nothing in this chapter shall be construed to limit an
17 ambulatory surgical center to performing only surgical procedures.

18 NEW SECTION. **Sec. 15.** After June 30, 1996, no person shall
19 operate or maintain an ambulatory surgical center or advertise by using
20 the term "licensed ambulatory surgery center," "licensed day surgery
21 center," "licensed surgical center," "licensed surgery center," or
22 other words conveying similar meaning without first obtaining an
23 ambulatory surgical center license from the department.

24 NEW SECTION. **Sec. 16.** An applicant for an ambulatory surgical
25 center license shall:

26 (1) Submit to the department a written application on a form
27 provided by the department, including a list of surgical specialties
28 offered;

29 (2) Submit to the department for review and approval building plans
30 for new construction, alterations other than minor alterations, and
31 additions to existing facilities prior to licensure and occupancy as
32 prescribed by the department;

33 (3) Demonstrate ability to comply with this chapter and rules
34 adopted under this chapter;

35 (4) Cooperate with the department during on-site surveys prior to
36 licensure or renewal of licensure;

1 (5) Provide such proof as the department may require concerning
2 organizational and governance structure, and the identity of the
3 applicant, officers, directors, partners, managing employees, or owners
4 of ten percent or more of the applicant's assets;

5 (6) Pay to the department a license fee and building plan review
6 fee as prescribed by the department under the authority of RCW
7 43.70.110 and 43.70.250; and

8 (7) Provide any other information the department may reasonably
9 require.

10 NEW SECTION. **Sec. 17.** If the department determines that an
11 applicant complies with the provisions of this chapter and rules
12 adopted under this chapter, the department shall issue a license to the
13 applicant. A license, unless suspended or revoked, is effective for a
14 period of two years, however an initial license is only effective for
15 twelve months. The department shall conduct at least one on-site
16 survey within each licensure period, except as provided for in section
17 21 of this act.

18 NEW SECTION. **Sec. 18.** The department shall establish and adopt
19 such minimum standards and rules pertaining to the construction,
20 maintenance, and operation of ambulatory surgical centers as are
21 necessary for the safe and adequate care and treatment of patients:
22 PROVIDED, That such minimum standards are no greater than federal
23 medicare program standards as they existed on January 1, 1995, unless
24 authorized by other state statute. The department shall adopt
25 standards that are at least equal to recognized applicable national
26 standards pertaining to medical gas piping systems. The department
27 shall rescind, amend, or modify the rules as necessary.

28 NEW SECTION. **Sec. 19.** The department may, at any time, conduct an
29 on-site survey of a licensee in order to determine compliance with this
30 chapter and rules adopted under this chapter.

31 NEW SECTION. **Sec. 20.** The department may deny, suspend, or revoke
32 a license under this chapter or, in lieu thereof or in addition
33 thereto, assess civil monetary penalties in any case in which it finds
34 the applicant or licensee:

1 (1) Failed or refused to comply with the requirements of this
2 chapter or rules adopted under this chapter;

3 (2) Was the holder of a license issued according to this chapter
4 that was revoked for cause and never reissued by the department, or
5 that was suspended for cause and the terms of the suspension were not
6 fulfilled, and the licensee has continued to operate;

7 (3) Has knowingly or with reason to know made a false statement of
8 material fact in the application for the license or any data attached
9 thereto or in any record required by this chapter or matter under
10 investigation by the department;

11 (4) Refused to allow representatives of the department to inspect
12 any portion of the licensee's premises, or any book, record, or file
13 required by this chapter to be maintained;

14 (5) Willfully prevented, interfered with, or attempted to impede in
15 any way the work of any representative of the department and the lawful
16 enforcement of any provision of this chapter;

17 (6) Willfully prevented, interfered with, or attempted to impede in
18 any way any representative of the department in the preservation of
19 evidence of any violation of this chapter or rules adopted under this
20 chapter;

21 (7) Failed to pay any civil monetary penalty assessed by the
22 department according to this chapter within ten days after the
23 assessment becomes final;

24 (8) Used advertising that is false, fraudulent, or misleading;

25 (9) Has repeated incidents of personnel performing services beyond
26 their scope of practice; or

27 (10) Misrepresented or was fraudulent in any aspect of the conduct
28 of the licensee's business.

29 NEW SECTION. **Sec. 21.** (1) An ambulatory surgical center that is
30 certified or accredited as an ambulatory surgical center by the federal
31 medicare program or any private accrediting organization shall be
32 granted the applicable renewal license without the necessity of an on-
33 site state licensure survey if:

34 (a) The department determines that the applicable survey standards
35 of the certification or accreditation program are substantially
36 equivalent to those required by this chapter;

1 (b) An on-site survey has been conducted for the purposes of
2 certification or accreditation during the previous twenty-four months;
3 and

4 (c) The department receives directly from the certifying or
5 accrediting entity or from the licensee or applicant copies of the
6 initial and subsequent survey reports and other relevant reports or
7 findings that indicate compliance with licensure requirements.

8 (2) In reviewing whether the federal medicare program or any
9 private accrediting organization has survey standards that are of
10 substantial equivalency to those set forth in this chapter, the
11 department is directed to provide the most liberal interpretation
12 consistent with the intent of this chapter. In the event the
13 department determines at any time that the survey standards are not
14 substantially equivalent to those required by this chapter, the
15 department is directed to notify the affected licensees. The
16 notification shall contain a detailed description of the deficiencies
17 in the alternative survey process, as well as an explanation concerning
18 the risk to the consumer. The determination of substantial equivalency
19 for an alternative survey process and lack of substantial equivalency
20 are agency actions and subject to the provisions of chapter 34.05 RCW.

21 (3) Ambulatory surgical centers receiving a license without an on-
22 site survey by the department under this chapter shall pay the same
23 licensure fee as other ambulatory surgical centers.

24 (4) This section does not affect the department's enforcement
25 authority for licensed ambulatory surgical centers.

26 **Sec. 22.** RCW 18.106.010 and 1983 c 124 s 1 are each amended to
27 read as follows:

28 Unless a different meaning is plainly required by the context, the
29 following words and phrases as hereinafter used in this chapter shall
30 have the following meaning:

31 (1) "Advisory board" means the state advisory board of plumbers;

32 (2) "Department" means the department of labor and industries;

33 (3) "Director" means the director of department of labor and
34 industries;

35 (4) "Journeyman plumber" means any person who has been issued a
36 certificate of competency by the department of labor and industries as
37 provided in this chapter;

1 (5) "Medical gas piping" means oxygen, nitrous oxide, high pressure
2 nitrogen, medical compressed air, and medical vacuum systems;

3 (6) "Specialty plumber" means anyone who has been issued a
4 specialty certificate of competency limited to installation,
5 maintenance, and repair of the plumbing of single family dwellings,
6 duplexes, and apartment buildings which do not exceed three stories;

7 ~~((6))~~ (7) "Plumbing" means that craft involved in installing,
8 altering, repairing and renovating potable water systems ~~((and))~~,
9 liquid waste systems, and medical gas piping systems within a building:
10 PROVIDED, That installation in a water system of water softening or
11 water treatment equipment shall not be within the meaning of plumbing
12 as used in this chapter.

13 NEW SECTION. Sec. 23. Sections 12 through 22 of this act are
14 necessary for the immediate preservation of the public peace, health,
15 or safety, or support of the state government and its existing public
16 institutions, and shall take effect July 1, 1995.

17 NEW SECTION. Sec. 24. Sections 12 through 21 of this act shall
18 constitute a new chapter in Title 70 RCW.

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