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**SUBSTITUTE HOUSE BILL 1332**

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**State of Washington**

**54th Legislature**

**1995 Regular Session**

**By** House Committee on Health Care (originally sponsored by Representatives Dyer and Dellwo; by request of Department of Health)

Read first time 02/28/95.

1 AN ACT Relating to the licensure of ambulatory surgical centers;  
2 amending RCW 18.106.010; adding a new chapter to Title 70 RCW;  
3 prescribing penalties; providing an effective date; and declaring an  
4 emergency.

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

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

14 It is the intent of the legislature to protect the citizens of  
15 Washington state by licensing ambulatory surgical centers and by  
16 adopting and enforcing minimum standards for ambulatory surgical  
17 centers. Standards established are intended to be the minimum  
18 necessary to ensure a safe environment for the performance of surgical  
19 procedures and to ensure safe and competent care of patients.

1        NEW SECTION.    **Sec. 2.**    Unless the context clearly requires  
2 otherwise, the definitions in this section apply throughout this  
3 chapter.

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

8        (a) A health care facility otherwise licensed and regulated by the  
9 department to provide surgical services, including an ambulatory  
10 surgical facility operated by a hospital and regulated by the  
11 department according to chapter 70.41 RCW; and

12        (b) A facility in the offices of either an individual or group  
13 practice of licensed practitioners, including where the facility is  
14 physically separate from such a practice, if the privilege of using  
15 such a facility is not extended to licensed practitioners outside the  
16 individual or group practice. However, such a facility may request  
17 licensure as an ambulatory surgical center if the facility meets the  
18 requirements of this chapter and rules adopted under this chapter.

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

20        (3) "Licensed practitioner" means a licensed health care  
21 professional authorized by Washington statute to perform surgical  
22 procedures, except those licensed under chapter 18.32 RCW.

23        (4) "Person" means an individual, firm, partnership, corporation,  
24 company, association, joint stock association, and the legal successor  
25 thereof.

26        (5) "Surgical procedure" means an invasive medical procedure that:

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

28        (b) Removes, corrects, or facilitates the diagnosis or cure of a  
29 disease, process, or injury through that branch of medicine that treats  
30 diseases, injuries, and deformities by manual or operative methods by  
31 a licensed practitioner. This subsection shall not be construed to  
32 limit an ambulatory surgical center to performing only surgical  
33 procedures.

34        NEW SECTION.    **Sec. 3.**    After June 30, 1996, no person shall operate  
35 or maintain an ambulatory surgical center or advertise by using the  
36 term "ambulatory surgical center," "day surgery center," "licensed  
37 surgical center," "licensed surgery center," or other words conveying

1 similar meaning without first obtaining an ambulatory surgical center  
2 license from the department.

3 NEW SECTION. **Sec. 4.** An applicant for an ambulatory surgical  
4 center license shall:

5 (1) Submit to the department a written application on a form  
6 provided by the department, including a list of surgical specialities  
7 offered;

8 (2) Submit to the department for review and approval building plans  
9 for new construction, alterations other than minor alterations, and  
10 additions to existing facilities prior to licensure and occupancy as  
11 prescribed by the department;

12 (3) Demonstrate ability to comply with this chapter and rules  
13 adopted under this chapter;

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

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

20 (6) Pay to the department a license fee and building plan review  
21 fee as prescribed by the department under the authority of RCW  
22 43.70.110 and 43.70.250; and

23 (7) Provide any other information the department may reasonably  
24 require.

25 NEW SECTION. **Sec. 5.** If the department determines that an  
26 applicant complies with the provisions of this chapter and rules  
27 adopted under this chapter, the department shall issue a license to the  
28 applicant. A license, unless suspended or revoked, is effective for a  
29 period of two years, however an initial license is only effective for  
30 twelve months. The department shall conduct at least one on-site  
31 survey within each licensure period, except as provided for in section  
32 9 of this act.

33 NEW SECTION. **Sec. 6.** The department shall establish and adopt  
34 such minimum standards and rules pertaining to the construction,  
35 maintenance, and operation of ambulatory surgical centers as are  
36 necessary for the safe and adequate care and treatment of patients:

1 PROVIDED, That such minimum standards are no greater than federal  
2 medicare program standards as they existed on January 1, 1995, unless  
3 authorized by other state statute. The department shall adopt  
4 standards that are at least equal to recognized applicable national  
5 standards pertaining to medical gas piping systems. The department  
6 shall rescind, amend, or modify the rules as necessary.

7 NEW SECTION. **Sec. 7.** The department may, at any time, conduct an  
8 on-site survey of a licensee in order to determine compliance with this  
9 chapter and rules adopted under this chapter.

10 NEW SECTION. **Sec. 8.** The department may deny, suspend, or revoke  
11 a license under this chapter or, in lieu thereof or in addition  
12 thereto, assess civil monetary penalties in any case in which it finds  
13 the applicant or licensee:

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

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

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

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

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

30 (6) Willfully prevented, interfered with, or attempted to impede in  
31 any way any representative of the department in the preservation of  
32 evidence of any violation of this chapter or rules adopted under this  
33 chapter;

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

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

1 (9) Has repeated incidents of personnel performing services beyond  
2 their scope of practice; or  
3 (10) Misrepresented or was fraudulent in any aspect of the conduct  
4 of the licensee's business.

5 NEW SECTION. **Sec. 9.** (1) An ambulatory surgical center that is  
6 certified or accredited as an ambulatory surgical center by the federal  
7 medicare program or any private accrediting organization shall be  
8 granted the applicable renewal license without the necessity of an on-  
9 site state licensure survey if:

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

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

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

20 (2) In reviewing whether the federal medicare program or any  
21 private accrediting organization has survey standards that are of  
22 substantial equivalency to those set forth in this chapter, the  
23 department is directed to provide the most liberal interpretation  
24 consistent with the intent of this chapter. In the event the  
25 department determines at any time that the survey standards are not  
26 substantially equivalent to those required by this chapter, the  
27 department is directed to notify the affected licensees. The  
28 notification shall contain a detailed description of the deficiencies  
29 in the alternative survey process, as well as an explanation concerning  
30 the risk to the consumer. The determination of substantial equivalency  
31 for an alternative survey process and lack of substantial equivalency  
32 are agency actions and subject to the provisions of chapter 34.05 RCW.

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

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

1       **Sec. 10.** RCW 18.106.010 and 1983 c 124 s 1 are each amended to  
2 read as follows:

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

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

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

8       (3) "Director" means the director of department of labor and  
9 industries;

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

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

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

19       (~~(6)~~) (7) "Plumbing" means that craft involved in installing,  
20 altering, repairing and renovating potable water systems (~~and~~),  
21 liquid waste systems, and medical gas piping systems within a building:  
22 PROVIDED, That installation in a water system of water softening or  
23 water treatment equipment shall not be within the meaning of plumbing  
24 as used in this chapter.

25       NEW SECTION.   **Sec. 11.** If any provision of this act or its  
26 application to any person or circumstance is held invalid, the  
27 remainder of the act or the application of the provision to other  
28 persons or circumstances is not affected.

29       NEW SECTION.   **Sec. 12.** This act is necessary for the immediate  
30 preservation of the public peace, health, or safety, or support of the  
31 state government and its existing public institutions, and shall take  
32 effect July 1, 1995.

33       NEW SECTION.   **Sec. 13.** Sections 1 through 9 and 11 of this act  
34 shall constitute a new chapter in Title 70 RCW.

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