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

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

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

It is the intent of the legislature to protect the citizens of Washington state by licensing ambulatory surgical centers and by adopting and enforcing minimum standards for ambulatory surgical centers. Standards established are intended to be the minimum necessary to ensure a safe environment for the performance of surgical procedures and to ensure safe and competent care of patients.
NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

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

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

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

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

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

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

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

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

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

NEW SECTION. Sec. 3. After June 30, 1996, no person shall operate or maintain an ambulatory surgical center or advertise by using the term "ambulatory surgical center," "day surgery center," "licensed surgical center," "licensed surgery center," or other words conveying
similar meaning without first obtaining an ambulatory surgical center license from the department.

NEW SECTION. Sec. 4. An applicant for an ambulatory surgical center license shall:
(1) Submit to the department a written application on a form provided by the department, including a list of surgical specialities offered;
(2) Submit to the department for review and approval building plans for new construction, alterations other than minor alterations, and additions to existing facilities prior to licensure and occupancy as prescribed by the department;
(3) Demonstrate ability to comply with this chapter and rules adopted under this chapter;
(4) Cooperate with the department during on-site surveys prior to licensure or renewal of licensure;
(5) Provide such proof as the department may require concerning organizational and governance structure, and the identity of the applicant, officers, directors, partners, managing employees, or owners of ten percent or more of the applicant’s assets;
(6) Pay to the department a license fee and building plan review fee as prescribed by the department under the authority of RCW 43.70.110 and 43.70.250; and
(7) Provide any other information the department may reasonably require.

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

NEW SECTION. Sec. 6. The department shall establish and adopt such minimum standards and rules pertaining to the construction, maintenance, and operation of ambulatory surgical centers as are necessary for the safe and adequate care and treatment of patients:
Provided, That such minimum standards are no greater than federal Medicare program standards as they existed on January 1, 1995, unless authorized by other state statute. The department shall adopt standards that are at least equal to recognized applicable national standards pertaining to medical gas piping systems. The department shall rescind, amend, or modify the rules as necessary.

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

New Section. Sec. 8. The department may deny, suspend, or revoke a license under this chapter or, in lieu thereof or in addition thereto, assess civil monetary penalties in any case in which it finds the applicant or licensee:

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

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

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

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

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

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

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

(8) Used advertising that is false, fraudulent, or misleading;
(9) Has repeated incidents of personnel performing services beyond their scope of practice; or
(10) Misrepresented or was fraudulent in any aspect of the conduct of the licensee’s business.

NEW SECTION. Sec. 9. (1) An ambulatory surgical center that is certified or accredited as an ambulatory surgical center by the federal medicare program or any private accrediting organization shall be granted the applicable renewal license without the necessity of an on-site state licensure survey if:
(a) The department determines that the applicable survey standards of the certification or accreditation program are substantially equivalent to those required by this chapter;
(b) An on-site survey has been conducted for the purposes of certification or accreditation during the previous twenty-four months; and
(c) The department receives directly from the certifying or accrediting entity or from the licensee or applicant copies of the initial and subsequent survey reports and other relevant reports or findings that indicate compliance with licensure requirements.
(2) In reviewing whether the federal medicare program or any private accrediting organization has survey standards that are of substantial equivalency to those set forth in this chapter, the department is directed to provide the most liberal interpretation consistent with the intent of this chapter. In the event the department determines at any time that the survey standards are not substantially equivalent to those required by this chapter, the department is directed to notify the affected licensees. The notification shall contain a detailed description of the deficiencies in the alternative survey process, as well as an explanation concerning the risk to the consumer. The determination of substantial equivalency for an alternative survey process and lack of substantial equivalency are agency actions and subject to the provisions of chapter 34.05 RCW.
(3) Ambulatory surgical centers receiving a license without an on-site survey by the department under this chapter shall pay the same licensure fee as other ambulatory surgical centers.
(4) This section does not affect the department’s enforcement authority for licensed ambulatory surgical centers.
Sec. 10. RCW 18.106.010 and 1983 c 124 s 1 are each amended to read as follows:

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

(1) "Advisory board" means the state advisory board of plumbers;
(2) "Department" means the department of labor and industries;
(3) "Director" means the director of department of labor and industries;
(4) "Journeyman plumber" means any person who has been issued a certificate of competency by the department of labor and industries as provided in this chapter;
(5) "Medical gas piping" means oxygen, nitrous oxide, high pressure nitrogen, medical compressed air, and medical vacuum systems;
(6) "Specialty plumber" means anyone who has been issued a specialty certificate of competency limited to installation, maintenance, and repair of the plumbing of single family dwellings, duplexes, and apartment buildings which do not exceed three stories;
((6))) (7) "Plumbing" means that craft involved in installing, altering, repairing and renovating potable water systems ((and)), liquid waste systems, and medical gas piping systems within a building: PROVIDED, That installation in a water system of water softening or water treatment equipment shall not be within the meaning of plumbing as used in this chapter.

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

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

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

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