

---

**SENATE BILL 5297**

---

**State of Washington**

**54th Legislature**

**1996 Regular Session**

**By** Senators Quigley, Moyer, Deccio, Franklin, Winsley and Wood; by request of Department of Health

Read first time 01/18/95. Referred to Committee on Health & Long-Term Care.

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

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

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

13 It is the intent of the legislature to protect the citizens of  
14 Washington state by licensing ambulatory surgical centers and by  
15 adopting and enforcing minimum standards for ambulatory surgical  
16 centers. Standards established are intended to be the minimum  
17 necessary to ensure a safe environment for the performance of surgical  
18 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 distinct entity that  
5 operates exclusively for the purpose of performing surgical procedures  
6 to treat patients not requiring hospitalization except:

7        (a) A health care facility otherwise licensed and regulated by the  
8 department to provide surgical services; and

9        (b) A facility in the offices of licensed practitioners, whether  
10 for individual or group practice, if the privilege of using such a  
11 facility is not extended to licensed practitioners outside the  
12 individual or group practice, unless such facility requests licensure  
13 as an ambulatory surgical center and meets the requirements of this  
14 chapter and rules adopted under this chapter.

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

16        (3) "Licensed practitioner" means a physician licensed under  
17 chapter 18.57 or 18.71 RCW, podiatric physician and surgeon licensed  
18 under chapter 18.22 RCW, dentist licensed under chapter 18.32 RCW, or  
19 any other licensed health care professional authorized by Washington  
20 state law to perform surgical procedures.

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

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

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

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

29        NEW SECTION.     **Sec. 3.**     After June 30, 1996, no person shall  
30 advertise, operate, or maintain an ambulatory surgical center without  
31 first obtaining an ambulatory surgical center license from the  
32 department.

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

35        (1) Submit to the department a written application on a form  
36 provided by the department, including a list of surgical procedures  
37 offered;

1 (2) Submit to the department for review and approval building plans  
2 for new construction, alterations, and additions to existing facilities  
3 prior to licensure and occupancy as prescribed by the department;

4 (3) Demonstrate ability to comply with this chapter and rules  
5 adopted under this chapter;

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

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

12 (6) Pay to the department a license fee and building plan review  
13 fee as prescribed by the department under the authority of RCW  
14 43.70.110 and 43.70.250; and

15 (7) Provide any other information the department may reasonably  
16 require.

17 NEW SECTION. **Sec. 5.** If the department determines that an  
18 applicant complies with the provisions of this chapter and rules  
19 adopted under this chapter, the department shall issue a license to the  
20 applicant. A license, unless suspended or revoked, is effective for a  
21 period of two years, however an initial license is only effective for  
22 twelve months. The department shall conduct at least one on-site  
23 survey within each licensure period, except as provided for in section  
24 9 of this act.

25 NEW SECTION. **Sec. 6.** The department shall establish and adopt  
26 such minimum standards and rules pertaining to the construction,  
27 maintenance, and operation of ambulatory surgical centers as are  
28 necessary for the safe and adequate care and treatment of patients.  
29 The department shall rescind, amend, or modify the rules as necessary.

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

33 NEW SECTION. **Sec. 8.** The department may deny, suspend, or revoke  
34 a license under this chapter or, in lieu thereof or in addition

1 thereto, assess civil monetary penalties in any case in which it finds  
2 the applicant or licensee:

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

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

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

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

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

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

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

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

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

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

31 NEW SECTION. **Sec. 9.** (1) An ambulatory surgical center that is  
32 certified or accredited as an ambulatory surgical center by the federal  
33 medicare program, the joint commission on accreditation of health care  
34 organizations, or any other accrediting organization approved by the  
35 department, shall be granted the applicable renewal license without the  
36 necessity of an on-site state licensure survey if:

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

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

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

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

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

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

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

34 NEW SECTION. **Sec. 11.** This act is necessary for the immediate  
35 preservation of the public peace, health, or safety, or support of the  
36 state government and its existing public institutions, and shall take  
37 effect July 1, 1995.

1        NEW SECTION.    **Sec. 12.**    Sections 1 through 10 of this act shall  
2    constitute a new chapter in Title 70 RCW.

--- **END** ---