

---

**SUBSTITUTE SENATE BILL 5297**

---

**State of Washington**

**54th Legislature**

**1996 Regular Session**

**By** Senate Committee on Health & Long-Term Care (originally sponsored by Senators Quigley, Moyer, Deccio, Franklin, Winsley and Wood; by request of Department of Health)

Read first time 02/02/96.

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

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

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

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

12        (b) A facility in the offices of either an individual or group  
13 practice of physicians licensed under chapter 18.71 RCW, osteopathic  
14 physicians or surgeons licensed under chapter 18.57 RCW, or podiatric  
15 physicians or surgeons licensed under chapter 18.22 RCW, including  
16 where the facility is physically separate from such a practice, if the  
17 privilege of using such a facility is not extended to such licensed  
18 practitioners outside the individual or group practice. However, such  
19 a facility may request licensure as an ambulatory surgical center if  
20 the facility meets the requirements of this chapter and rules adopted  
21 under this chapter; and

22        (c) A facility in which the services are provided solely by  
23 dentists licensed under chapter 18.32 RCW and persons assisting or  
24 under the supervision of dentists. However, such a facility may  
25 request licensure as an ambulatory surgical center if the facility  
26 meets the requirements of this chapter and rules adopted under this  
27 chapter.

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

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

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

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

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

1        NEW SECTION.    **Sec. 3.**    (1) Nothing in this chapter shall be  
2 construed in any manner to change or expand the scope of practice of a  
3 health care practitioner.

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

6        NEW SECTION.    **Sec. 4.**    After June 30, 1997, no person shall operate  
7 or maintain an ambulatory surgical center or advertise by using the  
8 term "licensed ambulatory surgery center," "licensed day surgery  
9 center," "licensed surgical center," "licensed surgery center," or  
10 other words conveying similar meaning without first obtaining an  
11 ambulatory surgical center license from the department.

12        NEW SECTION.    **Sec. 5.**    An applicant for an ambulatory surgical  
13 center license shall:

14        (1) Submit to the department a written application on a form  
15 provided by the department, including a list of surgical specialties  
16 offered;

17        (2) Submit to the department for review and approval building plans  
18 for new construction, alterations other than minor alterations, and  
19 additions to existing facilities prior to licensure and occupancy as  
20 prescribed by the department;

21        (3) Demonstrate ability to comply with this chapter and rules  
22 adopted under this chapter;

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

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

29        (6) Pay to the department a license fee and building plan review  
30 fee as prescribed by the department under the authority of RCW  
31 43.70.110 and 43.70.250; and

32        (7) Provide any other information the department may reasonably  
33 require.

34        NEW SECTION.    **Sec. 6.**    If the department determines that an  
35 applicant complies with the provisions of this chapter and rules  
36 adopted under this chapter, the department shall issue a license to the

1 applicant. A license, unless suspended or revoked, is effective for a  
2 period of two years, however an initial license is only effective for  
3 twelve months. The department shall conduct at least one on-site  
4 survey within each licensure period, except as provided for in section  
5 10 of this act.

6 NEW SECTION. **Sec. 7.** The department shall establish and adopt  
7 such minimum standards and rules pertaining to the construction,  
8 maintenance, and operation of ambulatory surgical centers as are  
9 necessary for the safe and adequate care and treatment of patients:  
10 PROVIDED, That such minimum standards are no greater than federal  
11 medicare program standards as they existed on January 1, 1995, unless  
12 authorized by other state statute. The department shall adopt  
13 standards that are at least equal to recognized applicable national  
14 standards pertaining to medical gas piping systems. The department  
15 shall rescind, amend, or modify the rules as necessary.

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

19 NEW SECTION. **Sec. 9.** The department may deny, suspend, or revoke  
20 a license under this chapter or, in lieu thereof or in addition  
21 thereto, assess civil monetary penalties in any case in which it finds  
22 the applicant or licensee:

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

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

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

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

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

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

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

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

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

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

16 NEW SECTION. **Sec. 10.** (1) An ambulatory surgical center that is  
17 certified or accredited as an ambulatory surgical center by the federal  
18 medicare program or any private accrediting organization shall be  
19 granted the applicable renewal license without the necessity of an on-  
20 site state licensure survey if:

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

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

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

31 (2) In reviewing whether the federal medicare program or any  
32 private accrediting organization has survey standards that are of  
33 substantial equivalency to those set forth in this chapter, the  
34 department is directed to provide the most liberal interpretation  
35 consistent with the intent of this chapter. In the event the  
36 department determines at any time that the survey standards are not  
37 substantially equivalent to those required by this chapter, the  
38 department is directed to notify the affected licensees. The

1 notification shall contain a detailed description of the deficiencies  
2 in the alternative survey process, as well as an explanation concerning  
3 the risk to the consumer. The determination of substantial equivalency  
4 for an alternative survey process and lack of substantial equivalency  
5 are agency actions and subject to the provisions of chapter 34.05 RCW.

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

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

11 NEW SECTION. **Sec. 11.** (1) No ambulatory surgical center or its  
12 medical staff may adopt or maintain admission practices or policies  
13 that result in:

14 (a) A significant reduction in the proportion of patients who have  
15 no third-party coverage and who are unable to pay for ambulatory  
16 surgical center services;

17 (b) A significant reduction in the proportion of individuals  
18 admitted for ambulatory surgical center services for which payment is,  
19 or is likely to be, less than the anticipated charges for or costs of  
20 such services; or

21 (c) The refusal to admit patients who would be expected to require  
22 unusually costly or prolonged treatment for reasons other than those  
23 related to the appropriateness of the care available at the ambulatory  
24 surgical center.

25 (2) For the purpose of providing charity care, each ambulatory  
26 surgical center shall develop, implement, and maintain a charity care  
27 policy that, consistent with this section, enables people below the  
28 federal poverty level to have access to appropriate ambulatory surgical  
29 center-based services, and a sliding fee schedule for determination of  
30 discounts from charges for persons who qualify for such discounts by  
31 January 1, 1997.

32 (3) The department of health shall develop guidelines to assist  
33 ambulatory surgical centers in setting sliding fee schedules required  
34 by this section. All persons with family income below one hundred  
35 percent of the federal poverty standard shall be deemed charity care  
36 patients for the full amount of ambulatory surgical center charges,  
37 provided that such persons are not eligible for other private or public

1 health coverage sponsorship. Persons who may be eligible for charity  
2 care shall be notified by the ambulatory surgical center.

3 NEW SECTION. **Sec. 12.** This act shall take effect July 1, 1996.

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

--- END ---