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**SENATE BILL 5453**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senators Becker, Frockt, Bailey, Jayapal, Chase, and McAuliffe

AN ACT Relating to establishing extended stay recovery centers; amending RCW 42.56.360 and 70.230.060; adding a new chapter to Title 70 RCW; and prescribing penalties.

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

NEW SECTION. **Sec.**  (1) The legislature finds that the progression of medical technology and resulting clinical improvements have enabled more numerous and complex surgical procedures to be performed safely on an outpatient basis. An extended stay recovery center enhances the ability of ambulatory surgical facilities to treat certain patients, who did not require the trappings of an acute care hospital during their recovery period, on an overnight basis.

(2) The legislature further finds that this approach has increased quality health care services in other states and would likely benefit patients of ambulatory surgical facilities in Washington state. Although the majority of patients in ambulatory surgical facilities are able to be discharged to their own homes, a small percentage have longer recovery times and require overnight care by a hospital. Permitting these patients to avail themselves of extended stay recovery centers avoids ambulance and hospitalization costs, resulting in decreased health care system costs, increased quality, and improved patient experience and outcomes.

(3) Therefore, the legislature intends to authorize extended stay recovery centers to provide an effective, well-regulated environment in which a patient can safely recuperate following surgical or other care.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

(2) "Extended stay recovery center" means a facility, licensed under this chapter, operated for the sole purpose of facilitating the extended recovery of patients that have been discharged from an ambulatory surgical facility. "Extended stay recovery center" does not mean a health care facility for the purposes of chapter 70.38 RCW.

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

(4) "Secretary" means the secretary for the department of health.

NEW SECTION. **Sec.**  A person or governmental unit of the state of Washington, acting separately or jointly with any other person or governmental unit, may not establish, maintain, or conduct an extended stay recovery center in this state or advertise by using the term "extended stay recovery center" without a license issued by the department under this chapter.

NEW SECTION. **Sec.**  (1) An applicant for a license to operate an extended stay recovery center must demonstrate the ability to comply with the standards established for operating and maintaining an extended stay recovery center under this chapter and under rules adopted to implement this chapter. This includes:

(a) Submitting a written application to the department providing all necessary information on a form provided by the department;

(b) Submitting building plans for review and approval by the department for new construction, alterations other than minor alterations, and additions to existing facilities, before obtaining a license and occupying the building;

(c) Cooperating with the department during on-site inspections before obtaining an initial license or renewing an existing license;

(d) Providing such proof as the department may require concerning the ownership and management of the extended stay recovery center, including information about the organization and governance of the facility and the identity of the applicant, officers, directors, partners, managing employees, or owners of ten percent or more of the applicant's assets;

(e) Submitting a copy of the extended stay recovery center's safety and emergency training program established under section 5 of this act;

(f) Paying the license fee established by the department under RCW 43.70.110; and

(g) Providing other information required by the department.

(2) A license is valid for three years. An extended stay recovery center must submit a license renewal application on forms provided by the department and must submit a renewal license fee established by the department under RCW 43.70.110. The applicant must demonstrate the ability to comply with this chapter and the rules adopted on operating an extended stay recovery center. The license renewal must be submitted at least thirty days before the date of the license's expiration.

NEW SECTION. **Sec.**  An extended stay recovery center must have a safety and emergency training program. The program must include:

(1) On-site equipment, medication, and trained personnel necessary to meet the patient's needs during his or her stay at the extended stay recovery center and to facilitate the management of any medical emergency that may arise in connection with the patient's recovery from the surgical procedure performed at an ambulatory surgical facility;

(2) Written transfer agreements with local hospitals licensed under chapter 70.41 RCW, approved by the extended stay recovery center's medical staff; and

(3) A procedural plan for handling medical emergencies that is available for review during department inspections.

NEW SECTION. **Sec.**  (1) The secretary may deny, suspend, or revoke the license of any extended stay recovery center if the secretary finds the applicant or registered entity knowingly made a false statement of material fact in the application for the license or any supporting data in any record required by this chapter or matter under investigation by the department.

(2) The secretary shall investigate complaints concerning the operation of an extended stay recovery center without a license. The secretary may issue a notice of intention to issue a cease and desist order to any person whom the secretary has reason to believe is engaged in the unlicensed operation of an extended stay recovery center. If the secretary makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, the secretary may issue a temporary cease and desist order. The person receiving a temporary cease and desist order must be provided an opportunity for a prompt hearing. The temporary cease and desist order remains in effect until further order of the secretary. Any person operating an extended stay recovery center under this chapter without a license is guilty of a misdemeanor, and each day of operation of an unlicensed extended stay recovery center constitutes a separate offense.

(3) The secretary is authorized to deny, suspend, revoke, or modify a license or provisional license in any case in which it finds that there has been a failure or refusal to comply with the requirements of this chapter or the standards or rules adopted under this chapter. RCW 43.70.115 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.

(4) Pursuant to chapter 34.05 RCW, the secretary may assess monetary penalties of a civil nature not to exceed one thousand dollars per violation.

NEW SECTION. **Sec.**  The duration of stay for patients in an extended stay recovery center may be for no more than seventy-two hours from admission. If, after seventy-two hours, the patient is not able to be discharged to his or her home, the extended stay recovery center must arrange for the patient to be transported to a hospital licensed under chapter 70.41 RCW.

NEW SECTION. **Sec.**  The department must adopt minimum standards and rules pertaining to the construction, maintenance, and operation of extended stay recovery centers. Rules must provide for the establishment and maintenance of standards of patient care required for the safe and adequate care and treatment of patients, including twenty-four hour staffing requirements.

NEW SECTION. **Sec.**  The department may at any time inspect the premises of an extended stay recovery center. If the department determines that the extended stay recovery center is out of compliance with this chapter and that this may interfere with patient safety, the department may, for just and reasonable cause, suspend, modify, or revoke the license of an extended stay recovery center. RCW 43.70.115 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.

NEW SECTION. **Sec.**  The department must require extended stay recovery centers to submit data related to the quality of patient care for review by the department. The data must be submitted every eighteen months. The department shall consider the reporting standards of other public and private organizations that measure quality in order to maintain consistency in reporting and minimize the burden on the extended stay recovery center. The department must review the data to determine the maintenance of quality patient care at the extended stay recovery center. If the department determines that the care offered at the extended stay recovery center may present a risk to the health and safety of patients, the department may conduct an inspection of the facility and initiate appropriate actions to protect the public. Information submitted to the department pursuant to this section is exempt from disclosure under chapter 42.56 RCW.

**Sec.**  RCW 42.56.360 and 2014 c 223 s 17 are each amended to read as follows:

(1) The following health care information is exempt from disclosure under this chapter:

(a) Information obtained by the pharmacy quality assurance commission as provided in RCW 69.45.090;

(b) Information obtained by the pharmacy quality assurance commission or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420;

(c) Information and documents created specifically for, and collected and maintained by a quality improvement committee under RCW 43.70.510, 70.230.080, or 70.41.200, or by a peer review committee under RCW 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640 or 18.20.390, or by a hospital, as defined in RCW 43.70.056, for reporting of health care-associated infections under RCW 43.70.056, a notification of an incident under RCW 70.56.040(5), and reports regarding adverse events under RCW 70.56.020(2)(b), regardless of which agency is in possession of the information and documents;

(d)(i) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310;

(ii) If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this subsection (1)(d) as exempt from disclosure;

(iii) If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality;

(e) Records of the entity obtained in an action under RCW 18.71.300 through 18.71.340;

(f) Complaints filed under chapter 18.130 RCW after July 27, 1997, to the extent provided in RCW 18.130.095(1);

(g) Information obtained by the department of health under chapter 70.225 RCW;

(h) Information obtained by the department of health under section 10 of this act;

(i) Information collected by the department of health under chapter 70.245 RCW except as provided in RCW 70.245.150;

((~~(i)~~))(j) Cardiac and stroke system performance data submitted to national, state, or local data collection systems under RCW 70.168.150(2)(b);

((~~(j)~~))(k) All documents, including completed forms, received pursuant to a wellness program under RCW 41.04.362, but not statistical reports that do not identify an individual; and

((~~(k)~~))(l) Data and information exempt from disclosure under RCW 43.371.040.

(2) Chapter 70.02 RCW applies to public inspection and copying of health care information of patients.

(3)(a) Documents related to infant mortality reviews conducted pursuant to RCW 70.05.170 are exempt from disclosure as provided for in RCW 70.05.170(3).

(b)(i) If an agency provides copies of public records to another agency that are exempt from public disclosure under this subsection (3), those records remain exempt to the same extent the records were exempt in the possession of the originating entity.

(ii) For notice purposes only, agencies providing exempt records under this subsection (3) to other agencies may mark any exempt records as "exempt" so that the receiving agency is aware of the exemption, however whether or not a record is marked exempt does not affect whether the record is actually exempt from disclosure.

**Sec.**  RCW 70.230.060 and 2007 c 273 s 6 are each amended to read as follows:

An ambulatory surgical facility shall have a facility safety and emergency training program. The program shall include:

(1) On-site equipment, medication, and trained personnel to facilitate handling of services sought or provided and to facilitate the management of any medical emergency that may arise in connection with services sought or provided;

(2) Written transfer agreements with local hospitals licensed under chapter 70.41 RCW, approved by the ambulatory surgical facility's medical staff; ((~~and~~))

(3) Written transfer agreements with extended stay recovery centers under chapter 70.--- RCW (the new chapter created in section 13 of this act), approved by the ambulatory surgical facility's medical staff; and

(4) A procedural plan for handling medical emergencies that shall be available for review during surveys and inspections.

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

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