

# SENATE BILL REPORT

## EHB 1777

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As Passed Senate, April 3, 2019

**Title:** An act relating to exempting certain existing ambulatory surgical facilities from certificate of need.

**Brief Description:** Exempting certain existing ambulatory surgical facilities from certificate of need.

**Sponsors:** Representatives Cody, Harris, Macri, Schmick, Vick, Appleton and Robinson.

**Brief History:** Passed House: 3/08/19, 98-0.

**Committee Activity:** Health & Long Term Care: 3/22/19, 3/25/19 [DP].

**Floor Activity:**

Passed Senate: 4/03/19, 47-0.

### Brief Summary of Engrossed Bill

- Exempts certain ambulatory surgical facilities from certificate of need requirements.

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### SENATE COMMITTEE ON HEALTH & LONG TERM CARE

**Majority Report:** Do pass.

Signed by Senators Cleveland, Chair; Randall, Vice Chair; O'Ban, Ranking Member; Bailey, Becker, Conway, Dhingra, Frockt, Keiser and Van De Wege.

**Staff:** Evan Klein (786-7483)

**Background:** Certificate of Need. The certificate of need program is a regulatory process that requires certain healthcare providers to get state approval before building certain types of facilities or offering new or expanded services. The certificate of need process is intended to help ensure facilities and new services proposed by healthcare providers are needed for quality patient care within a particular region or community. A certificate of need from the Department of Health (DOH) is required for construction, development, or establishment of hospitals, nursing homes, kidney dialysis centers, Medicare or Medicaid home health agencies and hospice agencies, ambulatory surgical centers, and hospice care centers.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Under the program, DOH must review the project under specific criteria related to community need, quality of services, financial feasibility, and the impact on health care costs in the community. Certain facilities are exempt from the certificate of need requirement. These include certain facilities offering inpatient tertiary health services, nursing homes owned and operated by a continuing care retirement community, and certain hospice agencies.

Ambulatory Surgical Facilities. Ambulatory surgical facilities are any free-standing entity, including an ambulatory surgery center that operates primarily for the purpose of performing surgical procedures to treat patients not requiring hospitalization. The term does not include a facility in the offices of private physicians or dentists if the privilege of using the facility is not extended to physicians or dentists outside the individual or group practice.

On January 19, 2018, DOH issued an interpretive statement regarding ambulatory surgical facilities owned and exclusively used by physicians. According to the statement, such ambulatory surgical facilities are not exempt from certificate of need review.

**Summary of Engrossed Bill:** An ambulatory surgery facility is exempt from all certificate of need requirements if it:

- is an individual practice or is a group practice for which the privilege of using the facility is not extended to physicians outside of the group practice;
- operated or received approval to operate prior to January 19, 2018; and
- was exempt from certificate of need requirements prior to January 19, 2018, because the facility was determined to be exempt pursuant to a determination of reviewability issued by DOH or was a single-specialty endoscopy center in existence prior to January 14, 2003.

The exemption applies regardless of future changes of ownership, corporate structure, or affiliations of the individual or group practice as long as the use of the facility remains limited to physicians in the group practice. The exemption does not apply to changes in services, specialties, or number of operating rooms.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This bill is taking a look at the certificate of need interpretative statement. This will allow all of the facilities that received approval or an exemption prior to the interpretive statement to continue to operate. This will save all of these facilities money. This allows clinics to avoid a cumbersome and costly regulatory process.

**Persons Testifying:** PRO: Roman Daniels-Brown, Polyclinic; Patricia Seib, The Vancouver Clinic.

**Persons Signed In To Testify But Not Testifying:** No one.