

SENATE BILL REPORT

ESHB 1414

As Reported By Senate Committee On:
Health & Long-Term Care, March 29, 2007
Ways & Means, April 2, 2007

Title: An act relating to licensing ambulatory surgical facilities.

Brief Description: Licensing ambulatory surgical facilities.

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Green, Morrell, Moeller, Schual-Berke and Campbell).

Brief History: Passed House: 3/13/07, 95-1.

Committee Activity: Health & Long-Term Care: 3/28/07, 3/29/07 [DPA-WM].
Ways & Means: 4/02/07 [DPA(HEA)].

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug, Ranking Minority Member; Carrell, Fairley, Kastama, Kohl-Welles, Marr and Parlette.

Staff: Edith Rice (786-7444)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended by Committee on Health & Long-Term Care.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Carrell, Fairley, Hatfield, Hobbs, Honeyford, Keiser, Kohl-Welles, Oemig, Parlette, Rasmussen, Regala, Roach, Schoesler and Tom.

Staff: Elaine Deschamps (786-7441)

Background: Ambulatory surgical centers are health care facilities that provide surgical services to patients that do not require hospitalization. Washington does not license ambulatory surgical centers, however, certain ambulatory surgical centers are subject to certificate of need reviews.

Since 1982, ambulatory surgical centers have been able to bill Medicare for certain surgical procedures. As of 2004 there were approximately 4,100 ambulatory surgical centers

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participating in Medicare and about 2,500 surgical procedures that they could bill for under Medicare.

Ambulatory surgical centers that wish to participate in Medicare must meet certain criteria and be approved through a process known as "certification." The certification standards address governance, safety, quality, and facility requirements. In addition, an ambulatory surgical center must obtain a survey which may be performed by a state agency or an accreditation organization. There are three primary accreditation organizations for ambulatory surgical centers that have deemed status from the Centers for Medicare and Medicaid Services (CMS). The CMS will deem an ambulatory surgical center to have met its standards if it is accredited by one of these organizations or licensed by a state licensing agency.

Summary of Engrossed Substitute Bill: Ambulatory surgical facilities must obtain a license from the Secretary of Health (Secretary) to operate in Washington. Ambulatory surgical facilities are defined as entities that provide specialty or multispecialty outpatient surgical services in which patients are admitted and discharged by the facility within 24 hours and do not require inpatient hospitalization.

An applicant may demonstrate that it has met any of the standards for obtaining a license if it is Medicare-certified or by providing documentation that it has met the standards of an accrediting organization with substantially equivalent standards. A license is valid for three years.

Ambulatory surgical facilities must be surveyed every 18 months by the Department of Health (Department). An ambulatory surgical facility certified by Medicare or accredited by an approved organization may substitute one of that organizations surveys for every other Department-required survey. Every 18 months an ambulatory surgical facility must submit quality data to the Department. The Department must review the data to determine the quality of care at the facility.

A license is not required for an ambulatory surgical facility that is maintained and operated by a hospital, a dental office, or for outpatient surgical services that do not require general anesthesia and are routinely and customarily performed in the office of a practitioner in an individual or group practice.

Ambulatory surgical facilities must maintain policies to assure that information regarding unanticipated outcomes is given to patients or their families or representatives. Such notification is not an admission of liability and no statements or gestures suggesting an apology may be admitted as evidence in a civil trial. Ambulatory surgical facilities must post a notice of the phone number where a complaint may be filed with the Department. Ambulatory surgical facilities must participate in the state's adverse event reporting system.

The Secretary must initiate investigations and bring enforcement actions for failures to comply with licensing requirements. The Secretary must determine which accreditation organizations have substantially equivalent standards for purposes of deeming ambulatory surgical facilities to have met certain licensing requirements. In addition, the Secretary must develop standards for the construction, maintenance, and operation of ambulatory surgical facilities.

The Medical Quality Assurance Commission, the Podiatric Medical Board, and the Board of Osteopathic Medicine and Surgery are authorized to adopt rules to govern the office-based surgery.

EFFECT OF CHANGES MADE BY RECOMMENDED AMENDMENT(S) AS PASSED COMMITTEE (Health & Long-Term Care): Reference to the dental quality assurance commission is removed. Technical changes are made regarding rules for office-based surgery. The stakeholder group convened by the Department of Health will identify relevant regulatory issues in addition to a reasonable fee schedule.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony (Health & Long-Term Care): PRO: This is one of the most important pieces of patient safety legislation to come along in many years. All ambulatory surgery centers should be treated the same.

OTHER: The inspection and accreditation standards are time consuming and detract from patient care. We set higher standards for our facilities. We have technical amendments we would like adopted. Our facilities come in all shapes and sizes.

Persons Testifying (Health & Long-Term Care): PRO: Lisa Thatcher, Washington State Hospital Association; Linda Hull, Washington Society of Anesthesiologists.

OTHER : Marshal McCabe, David Weber, Washington Ambulatory Surgery Center Association; Jim Jesernig, Olympia Ambulatory Center; Gail McGaffick, Washington Association of Nurse Anesthetists; Robin Appleford, Proliance Surgery.

Staff Summary of Public Testimony (Ways & Means): None.

Persons Testifying (Ways & Means): No one.