

**SSB 5778** - H COMM AMD

By Committee on Health Care & Wellness

NOT ADOPTED 03/03/2016

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 43.70.250 and 2013 c 77 s 2 are each amended to  
4 read as follows:

5 (1) It shall be the policy of the state of Washington that the  
6 cost of each professional, occupational, or business licensing  
7 program be fully borne by the members of that profession, occupation,  
8 or business.

9 (2) The secretary shall from time to time establish the amount of  
10 all application fees, license fees, registration fees, examination  
11 fees, permit fees, renewal fees, and any other fee associated with  
12 licensing or regulation of professions, occupations, or businesses  
13 administered by the department. In fixing said fees, the secretary  
14 shall set the fees for each program at a sufficient level to defray  
15 the costs of administering that program and the cost of regulating  
16 licensed volunteer medical workers in accordance with RCW 18.130.360,  
17 except as provided in RCW 18.79.202. In no case may the secretary  
18 increase a licensing fee for an ambulatory surgical facility licensed  
19 under chapter 70.230 RCW prior to July 1, 2018, nor may he or she  
20 commence the adoption of rules to increase a licensing fee prior to  
21 July 1, 2018.

22 (3) All such fees shall be fixed by rule adopted by the secretary  
23 in accordance with the provisions of the administrative procedure  
24 act, chapter 34.05 RCW.

25 Sec. 2. RCW 70.230.020 and 2007 c 273 s 2 are each amended to  
26 read as follows:

27 The secretary shall:

28 (1) Issue a license to any ambulatory surgical facility that:

29 (a) Submits payment of the fee established in (~~section 7,~~  
30 ~~chapter 273, Laws of 2007~~)) RCW 43.70.110 and 43.70.250;

1 (b) Submits a completed application that demonstrates the ability  
2 to comply with the standards established for operating and  
3 maintaining an ambulatory surgical facility in statute and rule. An  
4 ambulatory surgical facility shall be deemed to have met the  
5 standards if it submits proof of certification as a medicare  
6 ambulatory surgical facility or accreditation by an organization that  
7 the secretary has determined to have substantially equivalent  
8 standards to those of the department; and

9 (c) Successfully completes the survey requirements established in  
10 RCW 70.230.100;

11 (2) Develop an application form for applicants for a license to  
12 operate an ambulatory surgical facility;

13 (3) Initiate investigations and enforcement actions for  
14 complaints or other information regarding failure to comply with this  
15 chapter or the standards and rules adopted under this chapter;

16 (4) Conduct surveys of facilities, including reviews of medical  
17 records and documents required to be maintained under this chapter or  
18 rules adopted under this chapter;

19 (5) By March 1, 2008, determine which accreditation organizations  
20 have substantially equivalent standards for purposes of deeming  
21 specific licensing requirements required in statute and rule as  
22 having met the state's standards; and

23 (6) Adopt any rules necessary to implement this chapter.

24 **Sec. 3.** RCW 70.230.050 and 2007 c 273 s 5 are each amended to  
25 read as follows:

26 (1) An applicant for a license to operate an ambulatory surgical  
27 facility must demonstrate the ability to comply with the standards  
28 established for operating and maintaining an ambulatory surgical  
29 facility in statute and rule, including:

30 (a) Submitting a written application to the department providing  
31 all necessary information on a form provided by the department,  
32 including a list of surgical specialties offered;

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

37 (c) Demonstrating the ability to comply with this chapter and any  
38 rules adopted under this chapter;

1 (d) Cooperating with the department during on-site surveys prior  
2 to obtaining an initial license or renewing an existing license;

3 (e) Providing such proof as the department may require concerning  
4 the ownership and management of the ambulatory surgical facility,  
5 including information about the organization and governance of the  
6 facility and the identity of the applicant, officers, directors,  
7 partners, managing employees, or owners of ten percent or more of the  
8 applicant's assets;

9 (f) Submitting proof of operation of a coordinated quality  
10 improvement program in accordance with RCW 70.230.080;

11 (g) Submitting a copy of the facility safety and emergency  
12 training program established under RCW 70.230.060;

13 (h) Paying any fees established by the secretary under (~~section~~  
14 ~~7, chapter 273, Laws of 2007~~) RCW 43.70.110 and 43.70.250; and

15 (i) Providing any other information that the department may  
16 reasonably require.

17 (2) A license is valid for three years, after which an ambulatory  
18 surgical facility must submit an application for renewal of license  
19 upon forms provided by the department and the renewal fee as  
20 established in (~~section 7, chapter 273, Laws of 2007~~) RCW 43.70.110  
21 and 43.70.250. The applicant must demonstrate the ability to comply  
22 with the standards established for operating and maintaining an  
23 ambulatory surgical facility in statutes, standards, and rules. The  
24 applicant must submit the license renewal document no later than  
25 thirty days prior to the date of expiration of the license.

26 (3) The applicant may demonstrate compliance with any of the  
27 requirements of subsection (1) of this section by providing  
28 satisfactory documentation to the secretary that it has met the  
29 standards of an accreditation organization or federal agency that the  
30 secretary has determined to have substantially equivalent standards  
31 as the statutes and rules of this state.

32 **Sec. 4.** RCW 70.230.100 and 2007 c 273 s 11 are each amended to  
33 read as follows:

34 (1) The department shall make or cause to be made a survey of all  
35 ambulatory surgical facilities according to the following frequency:

36 (a) Except as provided in (b) of this subsection, an ambulatory  
37 surgical facility must be surveyed by the department no more than  
38 once every eighteen months.

1 (b) An ambulatory surgical facility must be surveyed by the  
2 department no more than once every thirty-six months if the  
3 ambulatory surgical facility:

4 (i) Has had, within eighteen months of a department survey, a  
5 survey in connection with its certification by the centers for  
6 medicare and medicaid services or accreditation by an accreditation  
7 organization approved by the department under RCW 70.230.020(5);

8 (ii) Has maintained certification by the centers for medicare and  
9 medicaid services or accreditation by an accreditation organization  
10 approved by the department under RCW 70.230.020(5) since the survey  
11 in connection with its certification or accreditation pursuant to  
12 (b)(i) of this subsection; and

13 (iii) As soon as practicable after a survey in connection with  
14 its certification or accreditation pursuant to (b)(i) of this  
15 subsection, provides the department with documentary evidence that  
16 the ambulatory surgical facility is certified or accredited and that  
17 the survey has occurred, including the date that the survey occurred.

18 (2) Every survey of an ambulatory surgical facility may include  
19 an inspection of every part of the surgical facility. The department  
20 may make an examination of all phases of the ambulatory surgical  
21 facility operation necessary to determine compliance with all  
22 applicable statutes, rules, and regulations. In the event that the  
23 department is unable to make a survey or cause a survey to be made  
24 during the three years of the term of the license, the license of the  
25 ambulatory surgical facility shall remain in effect until the state  
26 conducts a survey or a substitute survey is performed if the  
27 ambulatory surgical facility is in compliance with all other  
28 licensing requirements.

29 ~~((2) An ambulatory surgical facility shall be deemed to have met~~  
30 ~~the survey standards of this section if it submits proof of~~  
31 ~~certification as a medicare ambulatory surgical facility or~~  
32 ~~accreditation by an organization that the secretary has determined to~~  
33 ~~have substantially equivalent survey standards to those of the~~  
34 ~~department. A survey performed pursuant to medicare certification or~~  
35 ~~by an approved accrediting organization may substitute for a survey~~  
36 ~~by the department if:~~

37 ~~(a) The ambulatory surgical facility has satisfactorily completed~~  
38 ~~a survey by the department in the previous eighteen months; and~~

39 ~~(b) Within thirty days of learning the result of a survey, the~~  
40 ~~ambulatory surgical facility provides the department with documentary~~

1 ~~evidence that the ambulatory surgical facility has been certified or~~  
2 ~~accredited as a result of a survey and the date of the survey.)~~)

3 (3) Ambulatory surgical facilities shall make the written reports  
4 of surveys conducted pursuant to medicare certification procedures or  
5 by an approved accrediting organization available to department  
6 surveyors during any department surveys((7)) or upon request.

7 NEW SECTION. **Sec. 5.** A new section is added to chapter 48.39  
8 RCW to read as follows:

9 If a payor that contracts with an ambulatory surgical facility  
10 licensed under chapter 70.230 RCW requires successful completion of a  
11 survey as part of the contract, the ambulatory surgical facility is  
12 deemed to have met survey requirements if it has successfully  
13 completed a survey performed pursuant to medicare certification or by  
14 an accrediting organization that has been determined by the secretary  
15 of the department of health to have substantially equivalent survey  
16 standards to those of the centers for medicare and medicaid services.  
17 The payor may not impose additional survey requirements on the  
18 ambulatory surgical facility.

19 NEW SECTION. **Sec. 6.** A new section is added to chapter 70.230  
20 RCW to read as follows:

21 (1) The department shall report to the fiscal committees of the  
22 legislature by December 1, 2016, and December 1, 2017, if it  
23 anticipates that the amounts raised by ambulatory surgical facility  
24 licensing fees will not be sufficient to defray the costs of  
25 regulating ambulatory surgical facilities. The report shall identify  
26 the amount of state general fund money necessary to compensate for  
27 the insufficiency.

28 (2) The department shall (2) conduct a benchmark survey to compare  
29 Washington's system for licensing ambulatory surgical facilities with  
30 the ambulatory surgical facility licensing systems of other states  
31 with a similar number of licensed ambulatory surgical facilities. The  
32 survey must review the licensing standards, staffing levels, training  
33 of surveyors and inspectors, and expenditures of the selected states.  
34 The survey must examine the total cost of the other states'  
35 regulatory structures and analyze the reasons for any differences in  
36 cost. The survey must assess the extent to which total program costs  
37 in other states are supported through licensing fees compared with  
38 state general fund money or other resources. The findings of the

1 survey must be submitted to the committees of the legislature with  
2 jurisdiction over health care issues by December 1, 2016. The  
3 findings must include recommendations for statutory, regulatory, and  
4 administrative changes to reduce ambulatory surgical facility  
5 licensing fees.

6 (3) This section expires July 1, 2018.

7 NEW SECTION. **Sec. 7.** RCW 70.230.180 (Ambulatory surgical  
8 facility account) and 2007 c 273 s 19 are each repealed."

9 Correct the title.

EFFECT: Removes the limit on ambulatory surgical facility licensing fee increases as the lesser of three percent of the current fee or the inflation rate. Prohibits any increase in ambulatory surgical facility licensing fees or the commencement of any rule making related to the increase in ambulatory surgical facility licensing fees until July 1, 2018.

Requires the Department of Health (Department) to report to the fiscal committees of the legislature if it anticipates that ambulatory surgical facility license fees will not cover the costs of regulation. The report must indicate the amount of state general funds that are required to cover the shortfall.

Directs the Department to conduct a benchmark survey to compare Washington's ambulatory surgical facility licensing program with the programs of similar states. Requires the survey to review licensing standards, staffing levels, training, and expenditures, and analyze any differences in costs. Requires the survey to assess the extent to which program costs are supported through licensing fees or state general fund money or other resources. Directs the Department to submit its findings to the health care committees of the legislature by December 1, 2016. Requires the findings to include recommendations for statutory, regulatory, and administrative changes to reduce ambulatory surgical facility licensing fees.

Restructures provisions regarding the frequency of surveys. Requires an ambulatory surgical facility using the 36-month Department survey cycle to have maintained its certification or accreditation since the survey in connection with its certification or accreditation following the last Department survey. Conditions the 36-month Department survey cycle on the ambulatory surgical facility's notification to the Department of its certification or accreditation.

Restores existing law requiring ambulatory surgical facilities to provide the Department with evidence that the ambulatory surgical facility is certified or accredited. Requires the notification to be provided as soon as practicable (current law is 30 days) and to state that a survey occurred and the date of the survey.

Restores existing law requiring ambulatory surgical facilities to make reports of surveys available. Requires survey reports to be made

available during a survey or upon request instead of "during a survey, upon request."

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