

# SENATE BILL REPORT

## SB 5778

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As of January 27, 2016

**Title:** An act relating to ambulatory surgical facilities.

**Brief Description:** Concerning ambulatory surgical facilities.

**Sponsors:** Senators Becker, Frockt, Keiser, Bailey, Dammeier, Liias, Hatfield, Angel, Dansel, King, Baumgartner, Brown, Cleveland, Warnick, Honeyford, Parlette, Hill, Rivers, Fain, Braun, Litzow, Conway, Sheldon, Ericksen and Hewitt.

**Brief History:**

**Committee Activity:** Health Care: 2/09/15, 2/12/15 [DP]; 1/26/16.

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### SENATE COMMITTEE ON HEALTH CARE

**Majority Report:** Do pass.

Signed by Senators Becker, Chair; Dammeier, Vice Chair; Cleveland, Ranking Minority Member; Angel, Bailey, Baumgartner, Brown, Conway, Frockt, Jayapal, Keiser and Parlette.

**Staff:** Kathleen Buchli (786-7488)

**Background:** An ambulatory surgical facility (ASF) is any distinct entity that operates for the primary purpose of providing specialty or multispecialty outpatient surgical services in which patients are admitted to and discharged from the facility within 24 hours and do not require inpatient hospitalization. ASFs are licensed by the Department of Health (DOH) which establishes initial and renewal license fees, change of ownership fees, and late fees.

DOH must survey ASFs every 18 months, which must include an inspection of the ASF. A survey performed pursuant to Medicare certification or by an approved accrediting organization may substitute for a survey by DOH if DOH has completed a survey of the ASF within the previous 18 months and the ASF provides evidence of a successful survey within 30 days of learning the results of the survey.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Proposed Substitute):** An ASF has meet the survey standards if it submits proof of, or maintains its, Medicare certification through an accrediting organization or accreditation of the entire licensed facility space by an organization that DOH determines

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has substantially equivalent survey standards to those of DOH. A survey performed pursuant to Medicare certification or by a DOH-approved accrediting organization may substitute for a state licensing survey if:

- the ASF has satisfactorily completed a survey by DOH in the previous 18 months, and
- within 30 days of having a Medicare or accreditation survey by a DOH-approved accrediting organization, the ASF tells DOH when the survey occurred and within 90 days of that date provides DOH with the survey findings, results and approved plans of correction.

An ASF's survey report must be provided to DOH upon request. If the ASF has not met survey requirements, it is subject to an on-site state licensing survey and must pay an inspection fee. DOH may conduct non-routine on-site state surveys of an ASF if there is evidence of noncompliance with survey requirements or it is conducting a complaint investigation that results in substantiated allegations that raise concerns related to patient safety.

DOH may perform validation surveys on an ASF that has been surveyed by a DOH-approved accrediting organization in order to determine that the accrediting organization's standards continue to be equivalent to survey requirements of DOH. Validation surveys may be performed on no more than ten percent annually of each type of certification or accreditation survey. An inspection fee may not be charged for validation surveys.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on January 23, 2016.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony on Original Bill:** Testimony From 2015 Regular Session. PRO: Ambulatory surgical facility fees in this state are among the highest in the nation. The process needs to be made more efficient. The majority of ambulatory surgical facilities are licensed and certified by Medicare and other organizations that have the same standards as DOH. We are concerned about the inspection fee which should be included as a topic to be discussed by the workgroup.

OTHER: The bill removes the current requirements on DOH 18-month on-site surveys which are alternated with other surveys. In the current form, the DOH surveys could end and DOH would not survey these facilities at all. It would affect the state's ability to implement the state licensure program. DOH has encountered cash flow issues relating to the fee structure and fees being placed into a dedicated account. We have ideas for shifting fees.

**Persons Testifying on Original Bill:** Persons Testifying From 2015 Regular Session. PRO: Senator Becker, prime sponsor; Emily Studebaker, WA Ambulatory Surgery Center Assn.

OTHER: Martin Mueller, DOH.

**Staff Summary of Public Testimony on Proposed Substitute Bill:** Testimony From 2016 Regular Session. PRO: DOH has looked for efficiencies in the inspection requirements of ASFs. There is no need for an inspection to be done every year if they are getting an inspection through another process. This bill promotes patient safety and reduces the regulatory burden on ASFs.

CON: The bill imposes new fees on ASFs and they already pay high license fees; only four states have higher fees. The inspection fee in the bill is an additional fee. ASFs may have to be inspected by multiple groups; inspections are disruptive and expensive. In order for a survey to be substituted for another, the ASF must be certified and accredited.

**Persons Testifying on Proposed Substitute Bill:** Persons Testifying From 2016 Regular Session. PRO: Senator Becker, Prime Sponsor; Timothy Farrell, Department of Health, Health Systems Quality Assurance.

CON: Emily Studebaker, Washington Ambulatory Surgery Center Association.

Persons Signed In To Testify But Not Testifying: No One.