

# SENATE BILL REPORT

## SSB 5778

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As Amended by House, March 3, 2016

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

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

**Sponsors:** Senate Committee on Health Care (originally sponsored by 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, 2/04/16 [DPS, w/oRec].

Passed Senate: 2/17/16, 47-0.

Passed House: 3/03/16, 91-5; 3/03/16, 97-0.

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### SENATE COMMITTEE ON HEALTH CARE

**Majority Report:** That Substitute Senate Bill No. 5778 be substituted therefor, and the substitute bill do pass.

Signed by Senators Becker, Chair; Dammeier, Vice Chair; Angel, Bailey, Baumgartner, Brown, Conway, Frockt, Parlette and Rivers.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Cleveland, Ranking Minority Member; Jayapal and Keiser.

**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

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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 Substitute Bill:** DOH may not raise fees on ASFs at a rate that exceeds three percent of the current fee or the rate of inflation as determined by the Consumer Price Index, whichever is lower.

ASFs must be surveyed by DOH no more than once every eighteen months. However, facilities that are certified by the Centers for Medicare and Medicaid Services or accredited by an approved accrediting organization must be surveyed no more than once every thirty-six months if a certification or accreditation survey occurs within eighteen months of a DOH survey.

Payors that contract with an ASF must accept Medicare certification surveys or surveys by an accrediting organization that is determined by DOH to have equivalent standards to the CMS surveys; they may not impose additional requirements on the ASF.

**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:** Testimony From 2015 Regular Session on Original Bill. 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.

Testimony From 2016 Regular Session on First Substitute. 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:** Persons Testifying From 2015 Regular Session on Original Bill. PRO: Senator Becker, prime sponsor; Emily Studebaker, WA Ambulatory Surgery Center Assn.

OTHER: Martin Mueller, DOH.

Persons Testifying From 2016 Regular Session on First Substitute. 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.

**House Amendment(s):** Removes the requirement that the Secretary limit fee increases to three percent or the cost of living, and replaces it with a fee moratorium on new fees until July 1, 2018. If DOH anticipates that the amounts raised by licensing fees will not defray the costs of regulating ASFs, DOH must report this to the fiscal committees of the legislature and identify the amount of general fund money necessary to make up for the insufficiency.

Provides that ASFs that may be subject to a thirty-six month survey by the department must maintain certification or accreditation during that time period. After a survey that is not performed by DOH, the ASF must provide DOH with evidence that it is certified or accredited.

Requires DOH to conduct a benchmark survey to compare Washington's system for licensing ASFs with other states. This must include a review of licensing standards, staffing levels, training of surveyors and inspectors, and expenditures of the selected states. Survey findings must be reported to the health care committees of the legislature by December 1, 2016.

Adds a null and void clause.