

# HOUSE BILL REPORT

## HB 2894

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### As Reported by House Committee On: Health Care & Wellness

**Title:** An act relating to certificate of need exemptions for certain ambulatory facilities and centers.

**Brief Description:** Concerning certificate of need exemptions for certain ambulatory facilities and centers.

**Sponsors:** Representatives Schmick and Cody.

#### **Brief History:**

##### **Committee Activity:**

Health Care & Wellness: 1/30/18, 1/31/18 [DP].

#### **Brief Summary of Bill**

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

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### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** Do pass. Signed by 16 members: Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Graves, Assistant Ranking Minority Member; Caldier, Clibborn, DeBolt, Harris, Jinkins, MacEwen, Maycumber, Riccelli, Robinson, Slatter, Stonier and Tharinger.

**Staff:** Jim Morishima (786-7191).

#### **Background:**

Before a health care facility, including an ambulatory surgical facility, may be constructed, renovated, or sold, the Department of Health (DOH) must issue a certificate of need. When determining whether to issue a certificate of need, the DOH must consider a variety of factors, including:

- the population's need for the service;
- the availability of less costly or more effective methods of providing the service;

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- the financial feasibility and probable impact of the proposal on the cost of health care in the community;
- the need and availability of services and facilities for physicians and patients in the community;
- the efficiency and appropriateness of the use of existing similar services and facilities; and
- improvements in the financing and delivery of health services that contain costs and promote quality assurance.

For purposes of the certificate of need program, the DOH has defined "ambulatory surgical facility" as 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, the 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.

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**Summary of Bill:**

The DOH may not require a certificate of need for an ambulatory surgical facility or center wholly owned, fully operated, and used exclusively by a practice of physicians or dentists with two or fewer operating rooms and no more than two surgical specialties.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony:**

(In support) Ambulatory surgical facilities save money for private and public insurance programs. Ambulatory surgical facilities are subject to the certificate of need process and are defined by the Department of Health (DOH) in rule. The definition contains an exemption for small, incidental surgical practices. It has been difficult for the DOH to parse ownership structures to determine when this exemption applies, so the DOH issued an interpretive statement that the DOH would not exempt facilities whose primary purpose is surgery. Many ambulatory surgical facilities, however, have relied on this exemption. It would be devastating to these facilities if the exemption was withdrawn. This bill codifies current practice, gives the DOH the statutory authority to maintain the status quo, and clarifies what type of ambulatory surgical facilities are exempt from the certificate of need process.

(Opposed) None.

**Persons Testifying:** Representative Schmick, prime sponsor; John Wiesman, Department of Health; and Emily Studebaker and David Fitzgerald, Washington Ambulatory Surgical Center Association.

**Persons Signed In To Testify But Not Testifying:** None.