
SENATE BILL 5906

State of Washington

66th Legislature

2019 Regular Session

By Senator Becker

1 AN ACT Relating to the regulation of ambulatory surgical
2 facilities; amending RCW 70.230.020, 70.230.050, 70.230.090,
3 70.230.100, 43.70.250, and 43.70.110; adding new sections to chapter
4 70.230 RCW; and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 70.230.020 and 2016 c 146 s 2 are each amended to
7 read as follows:

8 The secretary shall:

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

10 (a) Submits payment of the fee established (~~in RCW 43.70.110 and~~
11 ~~43.70.250~~) pursuant to section 5 of this act;

12 (b) Submits a completed application that demonstrates the ability
13 to comply with the standards established for operating and
14 maintaining an ambulatory surgical facility in statute and rule. An
15 ambulatory surgical facility shall be deemed to have met the
16 standards if it submits proof of certification as a medicare
17 ambulatory surgical facility or accreditation by an organization that
18 the secretary has determined to have substantially equivalent
19 standards to those of the department; and

20 (c) Successfully completes the survey requirements established in
21 RCW 70.230.100;

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

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

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

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

13 (6) Provide written outreach, including information about the
14 survey process, to ambulatory surgical facilities before conducting a
15 survey;

16 (7) Provide written survey results to facilities, including
17 quantified deficiencies, a corrective action plan, and a timeline for
18 correction; and

19 (8) Adopt any rules necessary to implement this chapter.

20 **Sec. 2.** RCW 70.230.050 and 2016 c 146 s 3 are each amended to
21 read as follows:

22 (1) An applicant for a license to operate an ambulatory surgical
23 facility must demonstrate the ability to comply with the standards
24 established for operating and maintaining an ambulatory surgical
25 facility in statute and rule, including:

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

29 (b) Submitting building plans for review and approval by the
30 department for new construction, alterations other than minor
31 alterations, and additions to existing facilities, prior to obtaining
32 a license and occupying the building;

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

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

37 (e) Providing such proof as the department may require concerning
38 the ownership and management of the ambulatory surgical facility,
39 including information about the organization and governance of the

1 facility and the identity of the applicant, officers, directors,
2 partners, managing employees, or owners of ten percent or more of the
3 applicant's assets;

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

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

8 (h) Paying any fees established (~~by the secretary under RCW~~
9 ~~43.70.110 and 43.70.250~~) pursuant to section 5 of this act; and

10 (i) Providing any other information that the department may
11 reasonably require.

12 (2) A license is valid for (~~three~~) four years, after which an
13 ambulatory surgical facility must submit an application for renewal
14 of license upon forms provided by the department and the renewal fee
15 as established (~~in RCW 43.70.110 and 43.70.250~~) pursuant to section
16 5 of this act. The applicant must demonstrate the ability to comply
17 with the standards established for operating and maintaining an
18 ambulatory surgical facility in statutes, standards, and rules. The
19 applicant must submit the license renewal document no later than
20 thirty days prior to the date of expiration of the license.

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

27 **Sec. 3.** RCW 70.230.090 and 2007 c 273 s 10 are each amended to
28 read as follows:

29 The department shall establish and adopt such minimum standards
30 and rules pertaining to the construction, maintenance, and operation
31 of ambulatory surgical facilities and rescind, amend, or modify such
32 rules as necessary, (~~as are necessary in the public interest,~~) and
33 particularly for the establishment and maintenance of standards of
34 patient care required for the safe and adequate care and treatment of
35 patients. In establishing and amending the format and content of
36 these standards and rules, the department (~~shall give consideration~~
37 ~~to maintaining~~) must maintain consistency with such minimum
38 standards and rules applicable to ambulatory surgical facilities in
39 the survey standards of (~~accrediting organizations or federal~~

1 agencies that the secretary has determined to have substantially
2 equivalent standards as the statutes and rules of this state)) the
3 centers for medicare and medicaid services.

4 **Sec. 4.** RCW 70.230.100 and 2016 c 146 s 4 are each amended to
5 read as follows:

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

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

12 ~~(b) An ambulatory surgical facility must be surveyed by the~~
13 ~~department no more than once every thirty-six months if the~~
14 ~~ambulatory surgical facility:~~

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

19 ~~(ii) Has maintained)) no more than once every forty-eight months~~
20 ~~and, when possible, on the same schedule as a survey related to~~
21 ~~certification by the centers for medicare and medicaid services or~~
22 ~~accreditation by an accreditation organization approved by the~~
23 ~~department under RCW 70.230.020(5).~~

24 (2) If an ambulatory surgical facility has undergone a survey and
25 received certification by the centers for medicare and medicaid
26 services or accreditation by an accreditation organization approved
27 by the department under RCW 70.230.020(5) ((since the survey in
28 connection with its certification or accreditation pursuant to (b)(i)
29 of this subsection; and

30 ~~(iii) As soon as practicable after a survey in connection with~~
31 ~~its certification or accreditation pursuant to (b)(i) of this~~
32 ~~subsection, provides the department with documentary evidence that~~
33 ~~the ambulatory surgical facility is certified or accredited and that~~
34 ~~the survey has occurred, including the date that the survey occurred.~~

35 ~~(2)) within forty-eight months of the last survey made or caused~~
36 ~~to be made by the department, and the ambulatory surgical facility~~
37 ~~provides the department with documentary evidence that the facility~~
38 ~~is certified or accredited and that the survey has occurred,~~
39 ~~including the date that the survey occurred, the department must not~~

1 make or cause to be made an additional survey until forty-eight
2 months from that date.

3 (3) Every survey of an ambulatory surgical facility may include
4 an inspection of every part of the surgical facility. The department
5 may make an examination of all phases of the ambulatory surgical
6 facility operation necessary to determine compliance with all
7 applicable statutes, rules, and regulations. In the event that the
8 department is unable to make a survey or cause a survey to be made
9 during the (~~three~~) four years of the term of the license, the
10 license of the ambulatory surgical facility shall remain in effect
11 until the state conducts a survey or a substitute survey is performed
12 if the ambulatory surgical facility is in compliance with all other
13 licensing requirements.

14 (~~(3)~~) (4) Ambulatory surgical facilities shall make the written
15 reports of surveys conducted pursuant to medicare certification
16 procedures or by an approved accrediting organization available to
17 department surveyors during any department surveys or upon request.

18 NEW SECTION. Sec. 5. A new section is added to chapter 70.230
19 RCW to read as follows:

20 Beginning with the omnibus appropriations act for fiscal year
21 2019, the licensing and renewal fees for ambulatory surgical
22 facilities must be established in the omnibus appropriations act and
23 any amendment or additions made to that act. The licensing and
24 renewal fees established by the omnibus appropriations act or any
25 amendment or additions to that act may not exceed the department's
26 costs of regulating ambulatory surgical facilities.

27 NEW SECTION. Sec. 6. A new section is added to chapter 70.230
28 RCW to read as follows:

29 (1) The joint legislative audit and review committee must conduct
30 a performance audit of the department's ambulatory surgical facility
31 regulatory program. The study must explore:

32 (a) A comparison of state survey requirements and process and the
33 centers for medicare and medicaid services survey requirements and
34 process;

35 (b) The licensing fees required of ambulatory surgical facilities
36 as they relate to actual department costs for regulating the
37 facilities;

1 (c) Payments received by the department from the centers for
2 medicare and medicaid services for surveys conducted on behalf of the
3 centers for medicare and medicaid services; and

4 (d) Staffing for the survey program, including any need for an
5 increase or reduction of staff.

6 (2) The audit must be completed and provided to the legislature
7 by January 1, 2020.

8 (3) Beginning January 1, 2021, and annually thereafter, if the
9 department reports a backlog of required state licensing surveys of
10 more than twenty-five percent of all licensed facilities, the joint
11 legislative audit and review committee must conduct a new audit.

12 **Sec. 7.** RCW 43.70.250 and 2017 c 195 s 26 are each amended to
13 read as follows:

14 (1) It shall be the policy of the state of Washington that the
15 cost of each professional, occupational, or business licensing
16 program be fully borne by the members of that profession, occupation,
17 or business.

18 (2) The secretary shall from time to time establish the amount of
19 all application fees, license fees, registration fees, examination
20 fees, permit fees, renewal fees, and any other fee associated with
21 licensing or regulation of professions, occupations, or businesses
22 administered by the department. Any and all fees or assessments, or
23 both, levied on the state to cover the costs of the operations and
24 activities of the interstate health professions licensure compacts
25 with participating authorities listed under chapter 18.130 RCW shall
26 be borne by the persons who hold licenses issued pursuant to the
27 authority and procedures established under the compacts. In fixing
28 said fees, the secretary shall set the fees for each program at a
29 sufficient level to defray the costs of administering that program
30 and the cost of regulating licensed volunteer medical workers in
31 accordance with RCW 18.130.360, except as provided in RCW 18.79.202.

32 ~~((In no case may the secretary increase a licensing fee for an
33 ambulatory surgical facility licensed under chapter 70.230 RCW prior
34 to July 1, 2018, nor may he or she commence the adoption of rules to
35 increase a licensing fee prior to July 1, 2018.))~~ Licensing fees for
36 ambulatory surgical facilities licensed under chapter 70.230 RCW must
37 be set pursuant to section 5 of this act.

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

4 **Sec. 8.** RCW 43.70.110 and 2015 c 77 s 1 are each amended to read
5 as follows:

6 (1) The secretary shall charge fees to the licensee for obtaining
7 a license. Physicians regulated pursuant to chapter 18.71 RCW who
8 reside and practice in Washington and obtain or renew a retired
9 active license are exempt from such fees. After June 30, 1995,
10 municipal corporations providing emergency medical care and
11 transportation services pursuant to chapter 18.73 RCW shall be exempt
12 from such fees, provided that such other emergency services shall
13 only be charged for their pro rata share of the cost of licensure and
14 inspection, if appropriate. The secretary may waive the fees when, in
15 the discretion of the secretary, the fees would not be in the best
16 interest of public health and safety, or when the fees would be to
17 the financial disadvantage of the state.

18 (2) Except as provided in subsection (3) of this section, fees
19 charged shall be based on, but shall not exceed, the cost to the
20 department for the licensure of the activity or class of activities
21 and may include costs of necessary inspection.

22 (3) License fees shall include amounts in addition to the cost of
23 licensure activities in the following circumstances:

24 (a) For registered nurses and licensed practical nurses licensed
25 under chapter 18.79 RCW, support of a central nursing resource center
26 as provided in RCW 18.79.202;

27 (b) For all health care providers licensed under RCW 18.130.040,
28 the cost of regulatory activities for retired volunteer medical
29 worker licensees as provided in RCW 18.130.360; and

30 (c) For physicians licensed under chapter 18.71 RCW, physician
31 assistants licensed under chapter 18.71A RCW, osteopathic physicians
32 licensed under chapter 18.57 RCW, osteopathic physicians' assistants
33 licensed under chapter 18.57A RCW, naturopaths licensed under chapter
34 18.36A RCW, podiatrists licensed under chapter 18.22 RCW,
35 chiropractors licensed under chapter 18.25 RCW, psychologists
36 licensed under chapter 18.83 RCW, registered nurses and licensed
37 practical nurses licensed under chapter 18.79 RCW, optometrists
38 licensed under chapter 18.53 RCW, mental health counselors licensed
39 under chapter 18.225 RCW, massage therapists licensed under chapter

1 18.108 RCW, advanced social workers licensed under chapter 18.225
2 RCW, independent clinical social workers and independent clinical
3 social worker associates licensed under chapter 18.225 RCW, midwives
4 licensed under chapter 18.50 RCW, marriage and family therapists and
5 marriage and family therapist associates licensed under chapter
6 18.225 RCW, occupational therapists and occupational therapy
7 assistants licensed under chapter 18.59 RCW, dietitians and
8 nutritionists certified under chapter 18.138 RCW, speech-language
9 pathologists licensed under chapter 18.35 RCW, and East Asian
10 medicine practitioners licensed under chapter 18.06 RCW, the license
11 fees shall include up to an additional twenty-five dollars to be
12 transferred by the department to the University of Washington for the
13 purposes of RCW 43.70.112.

14 (4) Department of health advisory committees may review fees
15 established by the secretary for licenses and comment upon the
16 appropriateness of the level of such fees.

17 (5) Notwithstanding the requirements in this section, licensing
18 fees for ambulatory surgical facilities licensed under chapter 70.230
19 RCW must be set pursuant to section 5 of this act.

20 NEW SECTION. **Sec. 9.** Section 5 of this act is necessary for the
21 immediate preservation of the public peace, health, or safety, or
22 support of the state government and its existing public institutions,
23 and takes effect immediately.

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