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**SUBSTITUTE HOUSE BILL 1779**

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AS AMENDED BY THE SENATE

Passed Legislature - 2022 Regular Session

**State of Washington                      67th Legislature                      2022 Regular Session**

**By** House Labor & Workplace Standards (originally sponsored by Representatives Callan, Bronoske, Sells, Dolan, and Ramos)

READ FIRST TIME 01/25/22.

1            AN ACT Relating to requiring policies addressing surgical smoke;  
2 adding a new section to chapter 49.17 RCW; creating a new section;  
3 and providing effective dates.

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

5            NEW SECTION.    **Sec. 1.**    A new section is added to chapter 49.17  
6 RCW to read as follows:

7            (1) A health care employer shall adopt policies that require the  
8 use of a smoke evacuation system during any planned surgical  
9 procedure that is likely to generate surgical smoke which would  
10 otherwise make contact with the eyes or respiratory tract of the  
11 occupants of the room.

12            (2) The health care employer may select any smoke evacuation  
13 system that accounts for surgical techniques and procedures vital to  
14 patient safety and that takes into account employee safety.

15            (3) The department shall ensure compliance with this section  
16 during any on-site inspection.

17            (4) The definitions in this subsection apply throughout this  
18 section unless the context clearly requires otherwise.

19            (a) "Energy generating device" means a tool that performs a  
20 surgical function using heat, laser, electricity, or other form of  
21 energy.

1 (b) "Health care employer" means a hospital, as defined in RCW  
2 70.41.020, or an ambulatory surgical facility, as defined in RCW  
3 70.230.010.

4 (c) "Smoke evacuation system" means equipment designed to capture  
5 and neutralize surgical smoke at the point of origin, before the  
6 smoke makes contact with the eyes or the respiratory tract of  
7 occupants in the room. Smoke evacuation systems may be integrated  
8 with the energy generating device or separate from the energy  
9 generating device.

10 (d) "Surgical smoke" means the by-product that results from  
11 contact with tissue by an energy generating device.

12 (5) The department may adopt rules as necessary to administer  
13 this section.

14 NEW SECTION. **Sec. 2.** This act takes effect January 1, 2024,  
15 except that for the following hospitals, this act takes effect  
16 January 1, 2025:

17 (1) Hospitals certified as critical access hospitals under 42  
18 U.S.C. Sec. 1395i-4;

19 (2) Hospitals with fewer than 25 acute care beds in operation;

20 (3) Hospitals certified by the centers for medicare and medicaid  
21 services as sole community hospitals; and

22 (4) Hospitals that qualify as a medicare dependent hospital.

23 NEW SECTION. **Sec. 3.** (1) The surgical smoke evacuation account  
24 is created in the custody of the state treasurer. Revenues to the  
25 account consist of appropriations and transfers by the legislature  
26 and all other funding directed for deposit into the account. Only the  
27 director of the department of labor and industries or the director's  
28 designee may authorize expenditures from the account. The account is  
29 subject to the allotment procedures under chapter 43.88 RCW, but an  
30 appropriation is not required for expenditures. Expenditures from the  
31 account may be used only for purposes provided in subsection (3) of  
32 this section.

33 (2) By July 1, 2025, the director of the department of labor and  
34 industries must certify to the state treasurer the amount of any  
35 unobligated moneys in the surgical smoke evacuation account that were  
36 appropriated by the legislature from the general fund during the  
37 2023-2025 fiscal biennium, and the treasurer must transfer those  
38 moneys back to the general fund.

1           (3) (a) Subject to the funds available in the surgical smoke  
2 evacuation account and beginning January 2, 2025, a hospital  
3 described in (b) of this subsection may apply to the department of  
4 labor and industries for reimbursement for the costs incurred by the  
5 hospital on or before January 1, 2025, to purchase and install smoke  
6 evacuation systems as defined in section 1 of this act. The  
7 reimbursement may not exceed \$1,000 for each operating room in the  
8 hospital. The reimbursements under this subsection are only available  
9 until moneys contained in the account are exhausted.

10           (b) Only the following hospitals may apply for reimbursement:

11           (i) Hospitals certified as critical access hospitals under 42  
12 U.S.C. Sec. 1395i-4;

13           (ii) Hospitals with fewer than 25 acute care beds in operation;

14           (iii) Hospitals certified by the centers for medicare and  
15 medicaid services as sole community hospitals; and

16           (iv) Hospitals that qualify as a medicare dependent hospital.

17           (c) The department of labor and industries must determine the  
18 process for making an application for reimbursement.

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