

Vermont Legislative Joint Fiscal Office

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FISCAL NOTE

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S.278 An act relating to regulation of ambulatory surgical centers

As Introduced

The purpose of S.278 is to establish a regulatory framework for ambulatory surgical centers. Currently there is only one ambulatory surgical center in the state – *The Vermont Eye Surgery and Laser Center (VESLC)*. A second ambulatory surgical center– *the Green Mountain Surgery Center (GMSC)* – is expected to break ground this spring and open in the near future.

As part of the regulatory framework, this bill would subject ambulatory surgical centers (ASCs) to what is known as “bill back”, which allow regulatory agencies like the Green Mountain Care Board (GMCB) to bill back to regulated entities for certain activities related to its charge. There are three bill backs identified in the S.278: the industry bill back, bill back related funding the Health Care Advocate (HCA), and bill back related to Vermont Program for Quality in Health Care, Inc. (VPQHC). The bill would also institute a new provider tax and licensing fee.

Summary

The bill as proposed would reduce state general fund expenditures by **approximately \$204,000** by reducing the states required contributions for the GMCB and HCA bill backs and raise an **estimated \$205,000** in new revenues from a new fee and provider tax.¹

Ambulatory Surgical Centers				Estimated	
ESTIMATED FEES & TAXES				Savings/Revenues	
	2019*	2020	2021	To the State	
Licensing Fee	\$2,000	\$4,000	\$4,000	\$2,000 - \$4,000	New Revenues
GMCB Bill back	\$165,516	\$165,516	\$165,516	\$165,516	Savings to state
VPQHC Bill back	\$33,000	\$33,000	\$33,000	-----	
HCA Bill Back	\$38,250	\$38,250	\$38,250	\$38,250	Savings to state
Provider Tax (@6%)	\$205,000	\$377,161	\$405,464	\$205,000	New Revenues
	\$443,766	\$617,927	\$646,229	Approx. \$410,000	

Licensing Fee

¹ The GMSC is not expected to open until 2020. If these fees and provider taxes take effect in 2019 as proposed in S.278 as introduced, all of these costs would be borne by VESLC in year one (2019).

Sec. 1 subjects ambulatory surgical centers to annual licensing fees of **\$2,000**. It is anticipated there will be two ASC's by FY 2020.

Green Mountain Care Board Bill Back

Sec. 2 requires ambulatory surgical centers to pay bill back which hospitals and insurance companies pay to the Green Mountain Care Board (GMCB) for regulating such entities. S.278 would institute a bill back rate of **5%** (of costs determined by the Green Mountain Care Board) and reduce the state share from 40% to 35%. Using the bill back estimates in the GMCB's FY 2019 budget proposal as a proxy, ambulatory surgical centers would pay **\$165,516** in total. How this bill back would be divided between the two surgical centers has yet to be determined.

Green Mountain Care Board		Bill back	
Bill back as proposed - S.278		Bill back	
State	35%	\$1,158,610	<i>Reduced by 5%</i>
Hospitals	15%	\$496,547	<i>No change</i>
Non-profit hospital and medical services Corps.	15%	\$496,547	<i>No change</i>
Health Insurance Companies	15%	\$496,547	<i>No change</i>
HMOs	15%	\$496,547	<i>No change</i>
Ambulatory Surgical Centers	5%	\$165,516	NEW
	100%	\$3,310,314	

VPQHC Bill Back

Sec. 9 requires the ambulatory surgical centers to pay bill back related to the Vermont Program for Quality in Health Care, Inc. (VPQHC) as required under 18 V.S.A. § 9416(c). According to VPQHCs annual report, they receive \$660,000 from bill back of which the ASCs would pay **5% or \$33,000** in total, and reduce the share paid by health insurance companies and HMOs by 5% (from 50% to 45%). How this bill back would be divided between the two surgical centers has yet to be determined.

VPQHC		Bill back	
Bill back as proposed - S.278		Bill back	
Hospitals	35%	\$231,000	<i>No change</i>
Non-profit hospital and medical services Corps.	15%	\$99,000	<i>No change</i>
Health Insurance Companies & HMOs	45%	\$297,000	<i>Reduced by 5%</i>
Ambulatory Surgical Centers	5%	\$33,000	NEW
	100%	\$660,000	

Health Care Advocate Bill Back

Sec. 9 also requires ambulatory surgical centers to pay bill back for expenses incurred by the Office of the Health Care Advocate (HCA) for services related to the Green Mountain Care

Board’s and Department of Financial Regulation’s regulatory and supervisory duties. This bill would institute a bill back rate of **7.5%** and reduce the state’s share from 27.5% to 20%. The expenses related to the HCA for SFY’19 (not including the potential \$110,000 reduction proposed in the Governor’s budget) is \$510,000 of which **\$38,250** would be paid for by ambulatory surgical centers. How this bill back would be divided between the two surgical centers has yet to be determined.

Health Care Advocate			
Bill back as proposed - S.278		Bill back	
State	20%	\$102,000	<i>Reduced by 7.5%</i>
Hospitals	24.2%	\$123,420	<i>No change</i>
Non-profit hospital and medical services Corps.	24.2%	\$123,420	<i>No change</i>
Health Insurance Companies	24.2%	\$123,420	<i>No change</i>
Ambulatory Surgical Centers	7.5%	\$38,250	NEW
	100%	\$510,000	

Provider Taxes

Sec. 12 requires ambulatory surgical centers pay a 6% provider tax on net patient revenues. If the provider tax were to take effect in FY 2019, only the VESLC would pay the tax since the GMSC will not be open for business yet. Even when the GMSC is open and fully operational it is difficult to estimate how much new provider tax revenue the state would receive from the GMSC. That is because some of the earned revenues are for procedures that might have been performed in a hospital setting otherwise. And while it is anticipated that procedure prices may be cheaper than if performed in a hospital setting we do not know how much induced utilization will occur. As such, at this time we are assuming provider taxes received by the GMSC would be net neutral to the state. However, all of the revenues collected from the VESLC, which has been in business for many years, would be new revenues for the state.

Based on the Certificate of Need (CON) information filed by GMSC in 2017 and by VESLC in 2014, we estimate the total provider tax paid by ASCs to be approximately \$205,000 to \$405,000 between 2019 and 2021. Again, since we are assuming that only revenues received from the VESLC would be new revenues to the state, we are estimating **approximately \$205,000** in additional provider taxes received by the state.

Other fees and taxes

Ambulatory Surgical Centers may also be subject to other fees and taxes not mentioned in this bill. This document only includes taxes and fees mentioned in the S.278.