

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19

S.73

Introduced by Senators Lyons, Cummings, Ingram, McCormack and Westman

Referred to Committee on

Date:

Subject: Health; health care facilities; licensure; ambulatory surgical centers

Statement of purpose of bill as introduced: This bill proposes to establish a
licensing structure for ambulatory surgical centers.

An act relating to licensure of ambulatory surgical centers

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 18 V.S.A. chapter 49 is added to read:

CHAPTER 49. AMBULATORY SURGICAL CENTERS

Subchapter 1. General Provisions

§ 2141. DEFINITIONS

As used in this chapter:

(1) “Ambulatory surgical center” means any distinct entity that operates
exclusively for the purpose of providing outpatient surgical services and other
outpatient medical procedures to patients not requiring hospitalization and for
which the expected duration of services does not exceed 24 hours following an
admission.

1 (2) "Patient" means a person admitted to or receiving health care
2 services from an ambulatory surgical center.

3 (3) "Physician" means a physician licensed pursuant to 26 V.S.A.
4 chapter 23 or 33.

5 Subchapter 2. Licensure of Ambulatory Surgical Centers

6 § 2151. LICENSE

7 No person shall establish, maintain, or operate an ambulatory surgical
8 center in this State without first obtaining a license for the ambulatory surgical
9 center in accordance with this subchapter.

10 § 2152. APPLICATION; FEE

11 (a) An application for licensure of an ambulatory surgical center shall be
12 made to the Department of Health on forms provided by the Department and
13 shall include all information required by the Department. Each application for
14 a license shall be accompanied by a license fee.

15 (b) The annual licensing fee for an ambulatory surgical center shall be
16 \$2,000.00, provided that the fee for an applicant that presents evidence of
17 current accreditation by an accrediting organization approved by the
18 Department shall be reduced by the amount paid to the accrediting
19 organization to obtain the accreditation.

20 (c) Fees collected under this section shall be credited to a special fund
21 established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5 and

1 shall be available to the Department of Health to offset the costs of licensing
2 ambulatory surgical centers.

3 § 2153. LICENSE REQUIREMENTS

4 (a) Upon receipt of an application for a license and the licensing fee, the
5 Department of Health shall issue a license if it determines that the applicant
6 and the ambulatory surgical center facilities meet the following minimum
7 standards:

8 (1) The applicant shall demonstrate the capacity to operate an
9 ambulatory surgical center in accordance with rules adopted by the
10 Department.

11 (2) The applicant shall demonstrate that its facilities comply fully with
12 standards for health, safety, and sanitation as required by State law, including
13 standards set forth by the State Fire Marshal and the State Board of Health, and
14 municipal ordinance.

15 (3) The ambulatory surgical center shall not mix functions or operations
16 in a common space with another entity during concurrent or overlapping hours
17 of operation.

18 (4) The clinical services provided by the ambulatory surgical center
19 shall be managed by a medical director, who shall be a physician.

1 (5) The ambulatory surgical center shall ensure that all patients admitted
2 to or receiving services from the ambulatory surgical center shall be under the
3 care of a practicing physician.

4 (6) The ambulatory surgical center's nursing service shall be directed at
5 all times by a registered nurse or advanced practice registered nurse licensed
6 pursuant to 26 V.S.A. chapter 28.

7 (7) The ambulatory surgical center shall have an organized medical staff
8 of not fewer than three members that shall meet at least annually.

9 (b) A license is not transferable or assignable and shall be issued only for
10 the premises and persons named in the application.

11 § 2154. REVOCATION OF LICENSE, HEARING

12 The Department of Health, after notice and opportunity for hearing to the
13 applicant or licensee, is authorized to deny, suspend, or revoke a license in any
14 case in which it finds that there has been a substantial failure to comply with
15 the requirements established under this chapter. Such notice shall be served by
16 registered mail or by personal service, shall set forth the reasons for the
17 proposed action, and shall set a date not less than 60 days from the date of the
18 mailing or service on which the applicant or licensee shall be given
19 opportunity for a hearing. After the hearing, or upon default of the applicant or
20 licensee, the Department shall file its findings of fact and conclusions of law.
21 A copy of the findings and decision shall be sent by registered mail or served

1 personally upon the applicant or licensee. The procedure governing hearings
2 authorized by this section shall be in accordance with the usual and customary
3 rules provided for such hearings.

4 § 2155. APPEAL

5 Any applicant or licensee, or the State acting through the Attorney General,
6 aggrieved by the decision of the Department of Health after a hearing may,
7 within 30 days after entry of the decision as provided in section 2154 of this
8 title, appeal to the Superior Court for the district in which the appellant is
9 located. The court may affirm, modify, or reverse the Department's decision,
10 and either the applicant or licensee or the Department or State may appeal to
11 the Vermont Supreme Court for such further review as is provided by law.
12 Pending final disposition of the matter, the status quo of the applicant or
13 licensee shall be preserved, except as the court otherwise orders in the public
14 interest.

15 § 2156. INSPECTIONS

16 The Department shall make or cause to be made such inspections and
17 investigation as it deems necessary.

18 § 2157. RECORDS

19 Information received by the Department through filed reports, inspections,
20 or as otherwise authorized by law shall (1) not be disclosed publicly in a
21 manner that identifies or may lead to the identification of one or more

1 individuals or ambulatory surgical centers, (2) is exempt from public
2 inspection and copying under the Public Records Act, and (3) shall be kept
3 confidential except as it relates to a proceeding regarding licensure of an
4 ambulatory surgical center.

5 § 2158. NONAPPLICABILITY

6 The provisions of chapter 42 of this title, Bill of Rights for Hospital
7 Patients, do not apply to ambulatory surgical centers.

8 § 2159. RULES

9 The Department shall adopt rules pursuant to 3 V.S.A. chapter 25 as needed
10 to carry out the purposes of this subchapter and subchapter 3 of this chapter.
11 To the extent practicable, the Department's rules for licensure of ambulatory
12 surgical centers shall align with its rules for licensure of hospitals.

13 Sec. 2. EFFECTIVE DATE

14 This act shall take effect on January 1, 2020, provided that any ambulatory
15 surgical center in operation on that date shall have six months to complete the
16 licensure process.