

1 TO THE HONORABLE SENATE:

2 The Committee on Health and Welfare to which was referred Senate Bill
3 No. 73 entitled “An act relating to licensure of ambulatory surgical centers”
4 respectfully reports that it has considered the same and recommends that the
5 bill be amended by striking out all after the enacting clause and inserting in
6 lieu thereof the following:

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

8 CHAPTER 49. AMBULATORY SURGICAL CENTERS

9 Subchapter 1. General Provisions

10 § 2141. DEFINITIONS

11 As used in this chapter:

12 (1) “Ambulatory surgical center” means any distinct entity that operates
13 primarily for the purpose of providing surgical services to patients not
14 requiring hospitalization and for which the expected duration of services would
15 not exceed 24 hours following an admission. The term does not include:

16 (A) a facility that is licensed as part of a hospital; or

17 (B) a facility that is used exclusively as an office or clinic for the
18 private practice of one or more licensed health care professionals, unless one or
19 more of the following descriptions apply:

1 (i) the facility holds itself out to the public or to other health care
2 providers as an ambulatory surgical center, surgical center, surgery center,
3 surgicenter, or similar facility using a similar name or a variation thereof;

4 (ii) procedures are carried out at the facility using general
5 anesthesia, except as used in oral or maxillofacial surgery or as used by a
6 dentist with a general anesthesia endorsement from the Board of Dental
7 Examiners; or

8 (iii) patients are charged a fee for the use of the facility in addition
9 to the fee for the professional services of one or more of the health care
10 professionals practicing at that facility.

11 (2) “Health care professional” means:

12 (A) a physician licensed pursuant to 26 V.S.A. chapter 23 or 33;

13 (B) an advanced practice registered nurse licensed pursuant to 26
14 V.S.A. chapter 28;

15 (C) a physician assistant licensed pursuant to 26 V.S.A. chapter 31;

16 (D) a podiatrist licensed pursuant to 26 V.S.A. chapter 7; or

17 (E) a dentist licensed pursuant to 26 V.S.A. chapter 12.

18 (3) “Patient” means a person admitted to or receiving health care
19 services from an ambulatory surgical center.

20 Subchapter 2. Licensure of Ambulatory Surgical Centers

21 § 2151. LICENSE

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

4 § 2152. APPLICATION; FEE

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

9 (b) The annual licensing fee for an ambulatory surgical center shall be
10 \$600.00.

11 (c) Fees collected under this section shall be credited to a special fund
12 established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5 and
13 shall be available to the Department of Health to offset the costs of licensing
14 ambulatory surgical centers.

15 § 2153. LICENSE REQUIREMENTS

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

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

4 (2) The applicant shall demonstrate that its facilities comply fully with
5 standards for health, safety, and sanitation as required by State law, including
6 standards set forth by the State Fire Marshal and the Department of Health, and
7 municipal ordinance.

8 (3) The applicant shall have a clear process for responding to patient
9 complaints.

10 (4) The applicant shall participate in the Patient Safety Surveillance and
11 Improvement System established pursuant to chapter 43A of this title.

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

14 § 2154. REVOCATION OF LICENSE; HEARING

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

1 opportunity for a hearing. After the hearing, or upon default of the applicant or
2 licensee, the Department shall file its findings of fact and conclusions of law.
3 A copy of the findings and decision shall be sent by registered mail or served
4 personally upon the applicant or licensee. The procedure governing hearings
5 authorized by this section shall be in accordance with the usual and customary
6 rules provided for such hearings.

7 § 2155. APPEAL

8 Any applicant or licensee, or the State acting through the Attorney General,
9 aggrieved by the decision of the Department of Health after a hearing may,
10 within 30 days after entry of the decision as provided in section 2154 of this
11 title, appeal to the Superior Court for the district in which the appellant is
12 located. The court may affirm, modify, or reverse the Department's decision,
13 and either the applicant or licensee or the Department or State may appeal to
14 the Vermont Supreme Court for such further review as is provided by law.

15 Pending final disposition of the matter, the status quo of the applicant or
16 licensee shall be preserved, except as the court otherwise orders in the public
17 interest.

18 § 2156. INSPECTIONS

19 The Department of Health shall make or cause to be made such inspections
20 and investigation as it deems necessary.

1 § 2157. RECORDS

2 Information received by the Department of Health through filed reports,
3 inspections, or as otherwise authorized by law shall:

4 (1) not be disclosed publicly in a manner that identifies or may lead to
5 the identification of one or more individuals or ambulatory surgical centers;

6 (2) is exempt from public inspection and copying under the Public
7 Records Act; and

8 (3) shall be kept confidential except as it relates to a proceeding
9 regarding licensure of an ambulatory surgical center.

10 § 2158. NONAPPLICABILITY

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

13 § 2159. RULES

14 The Department of Health shall adopt rules pursuant to 3 V.S.A. chapter 25
15 as needed to carry out the purposes of this chapter.

16 Sec. 2. EFFECTIVE DATE

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

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2 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE