

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.

1

2 (Committee vote: \_\_\_\_\_)

3 \_\_\_\_\_

4 Senator \_\_\_\_\_

5 FOR THE COMMITTEE