

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 ~~exclusively primarily~~ for the purpose of providing ~~outpatient~~ surgical
14 services ~~and other outpatient medical procedures~~ to patients not requiring
15 hospitalization and for which the expected duration of services ~~does would~~ not
16 exceed 24 hours following an admission. **The term does not include:**

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

18 (B) a facility that is used as an office or clinic for the private

19 practice of one or more licensed physicians, podiatrists, or dentists, unless

20 one or more of the following descriptions apply:

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

5 **(ii) the facility is operated or used by a person or entity other**
6 **than the one or more physicians, podiatrists, or dentists who regularly**
7 **practice at that facility;**

8 **(iii) procedures are carried out at the facility using general**
9 **anesthesia, except as used in oral or maxillofacial surgery; or**

10 **(iv) patients are charged a fee for the use of the facility in**
11 **addition to the fee for the professional services of one or more physicians,**
12 **podiatrists, or dentists practicing at that facility.**

13 (2) “Patient” means a person admitted to or receiving health care
14 services from an ambulatory surgical center.

15 (3) “Physician” means a physician licensed pursuant to 26 V.S.A.
16 chapter 23 or 33.

17 Subchapter 2. Licensure of Ambulatory Surgical Centers

18 § 2151. LICENSE

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

1 § 2152. APPLICATION; FEE

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

6 (b) The annual licensing fee for an ambulatory surgical center shall be
7 ~~\$2,000.00, provided that the fee for an applicant that presents evidence of~~
8 ~~current accreditation by an accrediting organization approved by the~~
9 ~~Department shall be reduced by the amount paid to the accrediting~~
10 ~~organization to obtain the accreditation \$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 ~~State Board~~ Department
7 of Health, and municipal ordinance.

8 ~~(3) The ambulatory surgical center shall not mix functions or~~
9 ~~operations in a common space with another entity during concurrent or~~
10 ~~overlapping hours of operation.~~

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

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

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

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

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

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

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

8 § 2154. REVOCATION OF LICENSE, HEARING

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

1 § 2155. APPEAL

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

12 § 2156. INSPECTIONS

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

15 § 2157. RECORDS

16 Information received by the Department through filed reports, inspections,
17 or as otherwise authorized by law shall (1) not be disclosed publicly in a
18 manner that identifies or may lead to the identification of one or more
19 individuals or ambulatory surgical centers, (2) is exempt from public
20 inspection and copying under the Public Records Act, and (3) shall be kept

1 confidential except as it relates to a proceeding regarding licensure of an
2 ambulatory surgical center.

3 § 2158. NONAPPLICABILITY

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

6 § 2159. RULES

7 The Department shall adopt rules pursuant to 3 V.S.A. chapter 25 as needed
8 to carry out the purposes of this subchapter and subchapter 3 of this chapter.

9 **To the extent practicable, the Department's rules for licensure of**
10 **ambulatory surgical centers shall align with its rules for licensure of**
11 **hospitals.**

12 Sec. 2. EFFECTIVE DATE

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

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18 (Committee vote: _____)

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Senator _____

FOR THE COMMITTEE