



To: Senate Health & Welfare Committee  
From: Jessa Barnard, Vermont Medical Society  
Date: February 19, 2019  
RE: S.73 – An Act Relating to Licensure of Ambulatory Surgical Centers

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On behalf of the 2,000 physician and physician assistant members of the Vermont Medical Society (VMS) thank you for considering our written comments regarding S. 73.

The VMS has no position on the underlying issue of regulating ambulatory surgical centers and is comfortable with the findings of the Act 167 work group on the Regulation of Freestanding Health Care Facilities and the direction of S. 73.

VMS is submitting this written comment to ask that the Committee carefully define which entities will become subject to regulation under S. 73. We are concerned that the current definition in S. 73<sup>1</sup> may not be clear enough to omit physician and other health practitioner offices. We request that the Committee consider language clearly exempting physician offices, more in line with the full definition used in the Act 167 Report<sup>2</sup> or that found in existing statute.<sup>3</sup>

Thank you for considering our comments and I am happy to provide any further information.

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<sup>1</sup> Definition of Ambulatory Surgical Center in S.73

“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.

<sup>2</sup> Definition of Ambulatory Surgical Center from Act 167 Report

Ambulatory Surgical Center means: any distinct entity that operates primarily for the purpose of providing surgical services to patients not requiring hospitalization and in which the expected duration of services would not exceed 24 hours following an admission.

The term "ambulatory surgical center" does not include:

- (1) A facility that is licensed as part of a hospital, or;
- (2) A facility that is used as an office or clinic for the private practice of a physician(s), podiatrist(s), or dentist(s) unless:
  - a. It holds itself out to the public or other health care providers as an ambulatory surgical center, surgicenter or similar facility using a similar name or variation thereof, or;
  - b. It is operated or used by a person or entity different than the physician(s), podiatrists(s), or dentist(s) who regularly practice at that facility;
  - c. Procedures are carried out using general anesthesia, except as used in oral or maxillofacial surgery, or;
  - d. Patients are charged a fee for use of the facility in addition to the physician(s), podiatrist(s), or dentist(s) professional services.

<sup>3</sup> Definition of Ambulatory Surgical Center in 18 V.S.A. § 9432

As used in this subchapter:

- (A) "Ambulatory surgical center" means a facility or portion of a facility that provides surgical care not requiring an overnight stay. The office of a dentist in which activities are limited to dentistry and oral or maxillofacial surgical procedures shall not be deemed an ambulatory surgical center for purposes of this subchapter. In order to be considered an ambulatory surgical center, a facility shall meet all the following criteria: (a) charge, or intend to charge, a facility fee in addition to professional fees for the services performed; (b) have an operating room or recovery room in the facility; (c) use an anesthesiologist or nurse anesthetist; or (d) provide one or more outpatient services for which Medicare coverage is provided.