

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 as an office or clinic for the private practice

18 of one or more licensed ~~physicians, podiatrists, or dentists~~ health care

19 professionals, unless one or 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) the facility is operated or used by a person or entity other than
5 the one or more ~~physicians, podiatrists, or dentists~~ health care
6 professionals who regularly practice at that facility;

7 (iii) procedures are carried out at the facility using general
8 anesthesia, except as used in oral or maxillofacial surgery **or as used by a**
9 **dentist with a general anesthesia endorsement from the Board of Dental**
10 **Examiners;** or

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

14 (2) “Health care professional” means:

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

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

18 (C) a physician assistant licensed pursuant to 26 V.S.A. chapter
19 31;

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

21 (E) a dentist licensed pursuant to 26 V.S.A. 12;

1 (3) “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 \$600.00.

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

1 § 2153. LICENSE REQUIREMENTS

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

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

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

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

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

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

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

1 § 2154. REVOCATION OF LICENSE, HEARING

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

15 § 2155. APPEAL

16 Any applicant or licensee, or the State acting through the Attorney General,
17 aggrieved by the decision of the Department of Health after a hearing may,
18 within 30 days after entry of the decision as provided in section 2154 of this
19 title, appeal to the Superior Court for the district in which the appellant is
20 located. The court may affirm, modify, or reverse the Department's decision,
21 and either the applicant or licensee or the Department or State may appeal to

1 the Vermont Supreme Court for such further review as is provided by law.
2 Pending final disposition of the matter, the status quo of the applicant or
3 licensee shall be preserved, except as the court otherwise orders in the public
4 interest.

5 § 2156. INSPECTIONS

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

8 § 2157. RECORDS

9 Information received by the Department of **Health** through filed reports,
10 inspections, or as otherwise authorized by law shall (1) not be disclosed
11 publicly in a manner that identifies or may lead to the identification of one or
12 more individuals or ambulatory surgical centers, (2) is exempt from public
13 inspection and copying under the Public Records Act, and (3) shall be kept
14 confidential except as it relates to a proceeding regarding licensure of an
15 ambulatory surgical center.

1 § 2158. NONAPPLICABILITY

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

4 § 2159. RULES

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

8 Sec. 2. EFFECTIVE DATE

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

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18 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE