

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 health care professionals, unless one or more of the  
19 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 health care professionals who regularly practice at that facility;

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

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

13           (2) “Health care professional” means:

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

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

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

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

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

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

1                   Subchapter 2. Licensure of Ambulatory Surgical Centers

2                   § 2151. LICENSE

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

6                   § 2152. APPLICATION; FEE

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

11                  (b) The annual licensing fee for an ambulatory surgical center shall be  
12                  \$600.00.

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

17                  § 2153. LICENSE REQUIREMENTS

18                  (a) Upon receipt of an application for a license and the licensing fee, the  
19                  Department of Health shall issue a license if it determines that the applicant  
20                  and the ambulatory surgical center facilities meet the following minimum  
21                  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