

S.73 – Senate version showing markup from version as passed by the House

1 Sec. 1. 18 V.S.A. chapter 49 is added to read:

2 CHAPTER 49. AMBULATORY SURGICAL CENTERS

3 Subchapter 1. General Provisions

4 § 2141. DEFINITIONS

5 As used in this chapter:

6 (1) “Ambulatory surgical center” means any distinct entity that operates primarily for the
7 purpose of providing surgical services to patients not requiring hospitalization and for which the
8 expected duration of services would not exceed 24 hours following an admission. The term does
9 not include:

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

11 (B) a facility that is used exclusively as an office or clinic for the private practice of
12 one or more licensed health care professionals, unless one or more of the following descriptions
13 apply:

14 (i) the facility holds itself out to the public or to other health care providers as an
15 ambulatory surgical center, surgical center, surgery center, surgicenter, or similar facility using a
16 similar name or a variation thereof;

17 (ii) procedures are carried out at the facility using general anesthesia, except as used
18 in oral or maxillofacial surgery or as used by a dentist with a general anesthesia endorsement
19 from the Board of Dental Examiners; or

20 (iii) patients are charged a fee for the use of the facility in addition to the fee for the
21 professional services of one or more of the health care professionals practicing at that facility.

22 (2) “Health care professional” means:

- 1 (A) a physician licensed pursuant to 26 V.S.A. chapter 23 or 33;
2 (B) an advanced practice registered nurse licensed pursuant to 26 V.S.A. chapter 28;
3 (C) a physician assistant licensed pursuant to 26 V.S.A. chapter 31;
4 (D) a podiatrist licensed pursuant to 26 V.S.A. chapter 7; or
5 (E) a dentist licensed pursuant to 26 V.S.A. chapter 12.

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

8 Subchapter 2. Licensure of Ambulatory Surgical Centers

9 § 2151. LICENSE

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

13 § 2152. APPLICATION; FEE

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

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

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

23 § 2153. LICENSE REQUIREMENTS

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

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

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

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

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

12 **(5) The applicant shall maintain certification from the Centers for Medicare and**
13 **Medicaid Services and shall accept Medicare and Medicaid patients for ambulatory**
14 **surgical center facility services.**

15 **(6) The ambulatory surgical center facilities, including the buildings and grounds,**
16 **shall be subject to inspection by the Department, its designees, and other authorized**
17 **entities at all times.**

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

20 § 2154. REVOCATION OF LICENSE; HEARING

21 The Department of Health, after notice and opportunity for hearing to the applicant or
22 licensee, is authorized to deny, suspend, or revoke a license in any case in which it finds that
23 there has been a substantial failure to comply with the requirements established under this

1 chapter. Such notice shall be served by registered mail or by personal service, shall set forth the
2 reasons for the proposed action, and shall set a date not less than 60 days from the date of the
3 mailing or service on which the applicant or licensee shall be given opportunity for a hearing.
4 After the hearing, or upon default of the applicant or licensee, the Department shall file its
5 findings of fact and conclusions of law. A copy of the findings and decision shall be sent by
6 registered mail or served personally upon the applicant or licensee. The procedure governing
7 hearings authorized by this section shall be in accordance with the usual and customary rules
8 provided for such hearings.

9 § 2155. APPEAL

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

18 § 2156. INSPECTIONS

19 The Department of Health shall make or cause to be made such inspections and investigations
20 as it deems necessary. If the Department finds a violation as the result of an inspection or
21 investigation, the Department shall post a report on the Department's website summarizing the
22 violation and any corrective action required.

1 § 2157. RECORDS

2 (a) Information received by the Department of Health through filed reports, inspections, or as
3 otherwise authorized by law shall:

4 (1) not be disclosed publicly in a manner that identifies or may lead to the identification of
5 one or more individuals or ambulatory surgical centers;

6 (2) be exempt from public inspection and copying under the Public Records Act; and

7 (3) be kept confidential except as it relates to a proceeding regarding licensure of an
8 ambulatory surgical center.

9 (b) The provisions of subsection (a) of this section shall not apply to the summary reports of
10 violations required to be posted on the Department’s website pursuant to section 2156 of this
11 chapter.

12 § 2158. NONAPPLICABILITY

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

15 § 2159. RULES

16 The Department of Health shall adopt rules pursuant to 3 V.S.A. chapter 25 as needed to carry
17 out the purposes of this chapter. **The rules shall include requirements regarding:**

18 **(1) the ambulatory surgical center’s maintenance of a transport agreement with at**
19 **least one emergency medical services provider for emergency patient transportation;**

20 **(2) the ambulatory surgical center’s maintenance of a publicly accessible policy for**
21 **providing charity care to eligible patients; and**

22 **(3) the ambulatory surgical center’s participation in quality reporting programs**
23 **offered by the Centers for Medicare and Medicaid Services.**

1 Sec. 2. 18 V.S.A. § 1909 is amended to read:

2 § 1909. INSPECTIONS

3 The licensing agency shall make or cause to be made such inspections and ~~investigation~~
4 investigations as it deems necessary. If the licensing agency finds a violation as the result of an
5 inspection or investigation, the licensing agency shall post a report on the licensing agency's
6 website summarizing the violation and any corrective action required.

7 Sec. 3. 18 V.S.A. § 1910 is amended to read:

8 § 1910. RECORDS

9 (a) Information received by the licensing agency through filed reports,-inspection, or as
10 otherwise authorized ~~under this~~ by law, shall:

11 (1) not be disclosed publicly in ~~such a manner as to identify individuals or hospitals,~~
12 ~~except in a proceeding involving the question of licensure~~ that identifies or may lead to the
13 identification of one or more individuals or hospitals;

14 (2) be exempt from public inspection and copying under the Public Records Act; and

15 (3) be kept confidential except as it relates to a proceeding regarding licensure of a
16 hospital.

17 (b) The provisions of subsection (a) of this section shall not apply to the summary reports of
18 violations required to be posted on the licensing agency's website pursuant to section 1909 of
19 this chapter.

20 **Sec. 3a. 18 V.S.A. § 9373 is amended to read: (NEW)**

21 § 9373. DEFINITIONS

22 As used in this chapter:

23 * * *

1 (d) The Commissioner of Health shall publish or otherwise make publicly available on its
2 website each ambulatory surgical center’s performance results from quality reporting programs
3 offered by the Centers for Medicare and Medicaid Services and shall update the information at
4 least annually.

5 Sec. 6. EFFECTIVE DATES

6 (a) ~~This act~~ **Sec. 1 (18 V.S.A. chapter 49)** shall take effect on January 1, 2020, provided that
7 any ambulatory surgical center in operation on that date shall have six months to complete the
8 licensure process.

9 **(b) Secs. 2 (18 V.S.A. § 1909) and 3 (18 V.S.A. § 1910) shall take effect on July 1, 2019.**

10 **(c) Sec. 4 (18 V.S.A. § 9375(b)) and this section shall take effect on passage.**

11 **(d) Sec. 5 (18 V.S.A. § 9405b) shall take effect on January 1, 2020.**