



General Assembly

January Session, 2003

Amendment

LCO No. 7249

SB0114807249SD0

Offered by:

SEN. MURPHY, 16th Dist.
REP. FELTMAN, 6th Dist.
SEN. SULLIVAN, 5th Dist.

SEN. ANISKOVICH, 12th Dist.
REP. CARSON, 108th Dist.
SEN. FONFARA, 1st Dist.

To: Subst. Senate Bill No. 1148

File No. 545

Cal. No. 336

"AN ACT CONCERNING OUTPATIENT SURGICAL FACILITIES."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective July 1, 2003*) (a) As used in this section
4 and subsection (a) of section 19a-490 of the general statutes, as
5 amended by this act, "outpatient surgical facility" means any entity,
6 individual, firm, partnership, corporation, limited liability company or
7 association, other than a hospital, engaged in providing surgical
8 services for human health conditions that include the use of moderate
9 or deep sedation, moderate or deep analgesia or general anesthesia, as
10 such levels of anesthesia are defined from time to time by the
11 American Society of Anesthesiologists, or by such other professional or
12 accrediting entity as recognized by the Department of Public Health.

13 (b) No entity, individual, firm, partnership, corporation, limited
14 liability company or association, other than a hospital, shall

15 individually or jointly establish or operate an outpatient surgical
16 facility in this state without complying with chapter 368z of the
17 general statutes and obtaining a license from the Department of Public
18 Health for such facility pursuant to the provisions of chapter 368v of
19 the general statutes, unless such entity, individual, firm, partnership,
20 corporation, limited liability company or association meets any of the
21 following exceptions: (1) Provides to the Office of Health Care Access
22 satisfactory evidence that it was in operation on or before July 1, 2003;
23 (2) obtains, on or before July 1, 2003, from the Office of Health Care
24 Access, a determination that a certificate of need is not required and
25 provides the office with satisfactory evidence that it has commenced
26 development of an outpatient surgical facility prior to July 1, 2003; or
27 (3) obtains, between July 1, 2003, and June 30, 2004, inclusive, a
28 certificate of need from the office in accordance with the policies and
29 procedures utilized by the office in approving certificates of need as of
30 July 1, 2003. If an entity, individual, firm, partnership, corporation,
31 limited liability company or association satisfies any of the exceptions
32 in this subsection, it may operate an outpatient surgical facility
33 without a license through March 30, 2007, and shall have until March
34 30, 2007, to obtain a license from the Department of Public Health. No
35 outpatient surgical facility may be established between July 1, 2003,
36 and July 1, 2004, unless it satisfies one of the exceptions in this
37 subsection.

38 (c) The factors to be considered by the Commissioner of Health Care
39 Access in making a determination pursuant to subdivision (2) of
40 subsection (b) of this section as to whether development of an
41 outpatient surgical facility has been commenced shall include, but
42 need not be limited to, whether the applicant for such determination
43 has (1) contractually committed to a site for a facility, (2) expended
44 significant funds for predevelopment expenses for the facility, such as
45 consultation and equipment purchases, or (3) entered into contractual
46 arrangements with third-party payors for services related to the
47 operation of the facility. If any application for a determination
48 pursuant to subdivision (2) of subsection (b) of this section is denied,

49 the applicant may request that such denial be reviewed and
50 reconsidered by the commissioner. The commissioner shall give notice
51 of the grounds for such denial and shall conduct a hearing concerning
52 such denial in accordance with the provisions of chapter 54 of the
53 general statutes concerning contested cases.

54 (d) Notwithstanding the provisions of this section, each outpatient
55 surgical facility shall continue to be subject to the obligations and
56 requirements applicable to such facility, including, but not limited to,
57 any applicable provision of chapter 368v or 368z of the general
58 statutes.

59 (e) The provisions of this section shall not apply to persons licensed
60 to practice dentistry or dental medicine pursuant to chapter 379 of the
61 general statutes.

62 (f) Any outpatient surgical facility that is accredited as provided in
63 section 19a-691 of the general statutes, shall continue to be subject to
64 the requirements of section 19a-691 of the general statutes.

65 (g) On and after July 1, 2004, any entity, individual, firm,
66 partnership, corporation, limited liability company or association that
67 meets the definition of outpatient surgical facility pursuant to
68 subsection (a) of this section, shall be subject to the rights and
69 obligations that exist under statutes in effect as of June 30, 2003, and
70 nothing in this section shall be used or introduced in any proceeding to
71 suggest or infer or otherwise indicate or imply that such entity,
72 individual, firm, partnership, corporation, limited liability company or
73 association is or is not a free standing outpatient surgical facility under
74 section 19a-630 of the general statutes. No implication shall be created
75 by this section, or used in any manner in any proceeding of any kind,
76 as to whether or not a certificate of need is required on or after July 1,
77 2004.

78 (h) The Commissioner of Public Health may provide a waiver for
79 outpatient surgical facilities from the physical plant and staffing
80 requirements of the licensing regulations adopted pursuant to chapter

81 368v of the general statutes, provided no waiver may be granted
82 unless the health, safety and welfare of patients is ensured.

83 Sec. 2. Subsection (a) of section 19a-490 of the general statutes is
84 repealed and the following is substituted in lieu thereof (*Effective July*
85 *1, 2003*):

86 (a) "Institution" means a hospital, residential care home, health care
87 facility for the handicapped, nursing home, rest home, home health
88 care agency, homemaker-home health aide agency, mental health
89 facility, substance abuse treatment facility, outpatient surgical facility,
90 an infirmary operated by an educational institution for the care of
91 students enrolled in, and faculty and employees of, such institution; a
92 facility engaged in providing services for the prevention, diagnosis,
93 treatment or care of human health conditions, including facilities
94 operated and maintained by any state agency, except facilities for the
95 care or treatment of mentally ill persons or persons with substance
96 abuse problems; and a residential facility for the mentally retarded
97 licensed pursuant to section 17a-227 and certified to participate in the
98 Title XIX Medicaid program as an intermediate care facility for the
99 mentally retarded.

100 Sec. 3. (*Effective from passage*) The Commissioners of Health Care
101 Access and Public Health shall develop an advisory committee for the
102 purpose of reviewing laws, regulations, standards, policies and
103 practices, analyzing alternatives and formulating recommendations
104 with regard to the issues surrounding the licensure and regulation of
105 outpatient surgical facilities in order to ensure continuation of patient
106 access to and safe operation of such facilities. Such committee shall
107 include the presidents of the Connecticut Hospital Association and the
108 Connecticut State Medical Society, or their designees, and may include
109 representatives from hospitals, physicians, patients, and such other
110 members as the commissioners shall deem necessary. On or before
111 January 1, 2004, the commissioners shall submit a report, in accordance
112 with section 11-4a of the general statutes, to the joint standing
113 committee of the General Assembly having cognizance of matters

114 relating to public health containing the findings and recommendations
115 of the committee, if any."

This act shall take effect as follows:	
Section 1	<i>July 1, 2003</i>
Sec. 2	<i>July 1, 2003</i>
Sec. 3	<i>from passage</i>