



General Assembly

February Session, 2004

Raised Bill No. 5531

LCO No. 1911

01911_____PH_

Referred to Committee on Public Health

Introduced by:
(PH)

AN ACT CONCERNING REGULATION OF OUTPATIENT SURGICAL FACILITIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 1 of public act 03-274 is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2004*):

3 (a) As used in this section and subsection (a) of section 19a-490, as
4 amended, "outpatient surgical facility" means any entity, individual,
5 firm, partnership, corporation, limited liability company or association,
6 other than a hospital, engaged in providing surgical services or
7 interventional radiology procedures for human health conditions that
8 include the use of moderate or deep sedation, moderate or deep
9 analgesia or general anesthesia, as such levels of anesthesia are defined
10 from time to time by the American Society of Anesthesiologists, or by
11 such other professional or accrediting entity [as] recognized by the
12 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, except as
17 otherwise provided by this section, and obtaining a license within the
18 time specified in this subsection from the Department of Public Health
19 for such facility pursuant to the provisions of this chapter, unless such
20 entity, individual, firm, partnership, corporation, limited liability
21 company or association; [meets any of the following exceptions:] (1)
22 Provides to the Office of Health Care Access satisfactory evidence that
23 it was in operation on or before July 1, 2003, [; (2) obtains] or (2)
24 obtained, on or before July 1, 2003, from the Office of Health Care
25 Access, a determination that a certificate of need is not required. [and
26 provides the office with satisfactory evidence that it has commenced
27 development of an outpatient surgical facility prior to July 1, 2003; or
28 (3) obtains, between July 1, 2003, and June 30, 2004, inclusive, a
29 certificate of need from the office in accordance with the policies and
30 procedures utilized by the office in approving certificates of need as of
31 July 1, 2003. If an] An entity, individual, firm, partnership, corporation,
32 limited liability company or association [satisfies any of the exceptions
33 in this subsection, it] otherwise in compliance with this section may
34 operate an outpatient surgical facility without a license through March
35 30, 2007, and shall have until March 30, 2007, to obtain a license from
36 the Department of Public Health. [No outpatient surgical facility may
37 be established between July 1, 2003, and July 1, 2004, unless it satisfies
38 one of the exceptions in this subsection.]

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

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

55 [(d)] (c) Notwithstanding the provisions of this section, [each] no
56 outpatient surgical facility shall be required to comply with section
57 19a-617a, 19a-631, 19a-632, as amended, 19a-637a, as amended, 19a-
58 644, as amended, 19a-645, 19a-646, 19a-648, 19a-649, as amended, 19a-
59 650, 19a-652, or 19a-654 to 19a-683, inclusive, as amended. Each
60 outpatient surgical facility shall continue to be subject to the
61 obligations and requirements applicable to such facility, including, but
62 not limited to, any applicable provision of chapter 368v [or chapter
63 368z] and those provisions of chapter 368z not specified in this
64 subsection, except that a request for permission to undertake a transfer
65 or change of ownership or control shall not be required pursuant to
66 subsection (a) of section 19a-638, as amended, if the following
67 conditions are satisfied: (1) The outpatient surgical facility is owned
68 and controlled exclusively by persons licensed pursuant to section 20-
69 13; and (2) such transfer or change of ownership or control (A) does
70 not give ownership or control, in whole or in part, to any person not
71 licensed pursuant to section 20-13, and (B) involves forty-nine per cent
72 or less of the outpatient surgical facility's ownership or control.

73 [(e)] (d) The provisions of this section shall not apply to persons
74 licensed to practice dentistry or dental medicine pursuant to chapter
75 379 or to outpatient clinics licensed pursuant to this chapter.

76 [(f)] (e) Any outpatient surgical facility that is accredited as
77 provided in section 19a-691 shall continue to be subject to the
78 requirements of section 19a-691.

79 [(g)] On and after July 1, 2004, any entity, individual, firm,
80 partnership, corporation, limited liability company or association that
81 meets the definition of outpatient surgical facility pursuant to

82 subsection (a) of this section, shall be subject to the rights and
83 obligations that exist under statutes in effect as of June 30, 2003, and
84 nothing in this section shall be used or introduced in any proceeding to
85 suggest or infer or otherwise indicate or imply that such entity,
86 individual, firm, partnership, corporation, limited liability company or
87 association is or is not a free standing outpatient surgical facility under
88 section 19a-630. No implication shall be created by this section, or used
89 in any manner in any proceeding of any kind, as to whether or not a
90 certificate of need is required on or after July 1, 2004.]

91 [(h)] (f) The Commissioner of Public Health may provide a waiver
92 for outpatient surgical facilities from the physical plant and staffing
93 requirements of the licensing regulations adopted pursuant to chapter
94 368v, provided no waiver may be granted unless the health, safety and
95 welfare of patients is ensured.

96 Sec. 2. Subdivision (1) of section 19a-630 of the general statutes, as
97 amended by section 30 of public act 03-3 of the June 30 special session,
98 is repealed and the following is substituted in lieu thereof (*Effective July*
99 *1, 2004*):

100 (1) "Health care facility or institution" means any facility or
101 institution engaged primarily in providing services for the prevention,
102 diagnosis or treatment of human health conditions, including, but not
103 limited to: Outpatient clinics; [free standing] outpatient surgical
104 facilities; imaging centers; home health agencies, as defined in section
105 19a-490, as amended; clinical laboratory or central service facilities
106 serving one or more health care facilities, practitioners or institutions;
107 hospitals; nursing homes; rest homes; nonprofit health centers;
108 diagnostic and treatment facilities; rehabilitation facilities; and mental
109 health facilities. "Health care facility or institution" includes any parent
110 company, subsidiary, affiliate or joint venture, or any combination
111 thereof, of any such facility or institution, but does not include any
112 health care facility operated by a nonprofit educational institution
113 solely for the students, faculty and staff of such institution and their

114 dependents, or any Christian Science sanatorium operated, or listed
115 and certified, by the First Church of Christ, Scientist, Boston,
116 Massachusetts.

This act shall take effect as follows:	
Section 1	<i>July 1, 2004</i>
Sec. 2	<i>July 1, 2004</i>

Statement of Purpose:

To require outpatient surgical facilities to comply with certain certificate of need and licensing laws applicable to institutional care providers, and to remove the term "free standing" before "outpatient surgical facilities" from the definition of a health care facility or institution.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]