

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 1214
HOUSE BILL 1623

AN ACT TO REQUIRE THE LICENSING OF AMBULATORY SURGICAL FACILITIES,
SO AS TO IMPLEMENT THE RECOMMENDATIONS OF THE LEGISLATIVE
COMMISSION ON MEDICAL COST CONTAINMENT.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes of North Carolina are amended by adding a new Chapter, 131B, to read as follows:

"CHAPTER 131B.

"Licensing of Ambulatory Surgical Facilities.

"§ 131B-1. Definitions. — As used in this Chapter, unless the context requires otherwise, the following terms have the meanings specified:

- (1) 'Ambulatory Surgical Facility' means a public or private facility, not a part of a hospital, which provides surgical treatment to patients not requiring hospitalization. Such term does not include the offices of private physicians or dentists, whether for individual or group practice, unless they elect to apply for licensing.
- (2) 'Department' means the North Carolina Department of Human Resources.
- (3) 'Person' means an individual; a trust or estate; a partnership; a corporation, including associations, joint stock companies, and insurance companies; the State, or a political subdivision or instrumentality of the State.

"§ 131B-2. Purpose. — The purpose of this Chapter is to provide for the development, establishment and enforcement of basic standards:

- (a) for the care and treatment of individuals in ambulatory surgical facilities, and
- (b) for the maintenance and operation of ambulatory surgical facilities so as to ensure safe and adequate treatment of such individuals in ambulatory surgical facilities.

"§ 131B-3. License requirement. — (a) No person shall operate an ambulatory surgical facility without a license obtained from the department.

(b) Applications shall be available from the department and each application filed with the department shall contain all necessary and reasonable information that the department may by rule require. A one-year license shall be granted to the applicant upon a determination by the department that the applicant has complied with the provisions of this Chapter and the rules, regulations, or standards promulgated by the department under this Chapter.

(c) A license to operate an ambulatory surgical facility shall be annually renewed upon the filing and departmental approval of a renewal application. The renewal application shall be available from the department and shall contain all necessary and reasonable information that the department may by rule require.

(d) Each license shall be issued only for the premises and persons named in the application and shall not be transferable or assignable except with the written approval of the department.

(e) Licenses shall be posted in a conspicuous place on the licensed premises.

"§ 131B-4. **Denial, suspension, or revocation of license.** — (a) Subject to subsection (b), the department is empowered to deny a new or renewal application for a license, and to suspend or revoke an existing license upon a determination that there has been a substantial failure to comply with the provisions of this Chapter or the rules, regulations or standards promulgated under this Chapter.

(b) The provisions of Chapter 150A of the General Statutes shall govern all administrative action and judicial review in the cases where the department has taken the action described in subsection (a).

"§ 131B-5. **Rules and regulations.** — The Medical Care Commission is empowered to adopt, amend and promulgate all necessary rules, regulations and standards as may be designed to further the accomplishment of this Chapter. These rules, regulations or standards shall be no stricter than those issued by the Medical Care Commission under G.S. 131-126.7 of the Hospital Licensing Act. The Medical Care Commission shall adopt its rules, regulations and standards within 30 days of the effective date of this act.

"§ 131B-6. **Enforcement.** — The department shall enforce the rules, regulations and standards adopted, amended or promulgated by the Medical Care Commission with respect to ambulatory surgical facilities.

"§ 131B-7. **Inspections.** — The department shall make or cause to be made such inspections of ambulatory surgical facilities as it deems necessary. The department is empowered to delegate to a State officer, agent, board, bureau or division of State government the authority to make such inspections according to the rules, regulations and standards promulgated by the department. The department may revoke such delegated authority in its discretion.

"§ 131B-8. **Penalties.** — A person who owns (in whole or in part) or operates an ambulatory surgical facility without a license is guilty of a misdemeanor, and upon conviction will be subject to a fine of not more than fifty dollars (\$50.00) for the first offense and not more than five hundred dollars (\$500.00) for each subsequent offense. Each day of continuing violation after conviction is considered a separate offense.

"§ 131B-9. **Injunctive relief.** — The department may commence an action in the name of the State for an injunction or other process against any person to prevent the operation of an ambulatory surgical facility without a license. Such action shall be brought in the Superior Court of Wake County."

Sec. 2. Section 3 of Session Laws 1977 Chapter 712 is amended by adding at the end of that section the following:

"G.S. Chapter 131B, entitled 'Licensing of Ambulatory Surgical Facilities'."

Sec. 3. This act is effective 90 days after ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.