COUNCIL OF THE DISTRICT OF COLUMBIA NOTICE

D.C. Law 2-66

"D.C. Ambulatory Surgical Treatment Center Licensure Act"

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P.L. 93-1978, "the Act," the Council of the District of Columbia adopted Bill No. 2-L33, on first and second readings September 13, 1977 and October 11, 1977 respectively. Following the signature of the Mayor on January 27, 1978, this legislation was assigned Act No. 2-L38, published in the February 17, 1978, edition of the D.C. register and transmitted to both Houses of Congress for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day congressional Review Period has expired and, therefore, cities the following legislation as D.C. Law 2-66, effective April 6, 1978.

STERLING TUCKER
Chairman of the Council

(Vol. 24, D.C. Register, 6836, January 19, 1978)

D.C. Law 2-66

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

April 6, 1978

To license ambulatory surgical treatment centers.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA.

That this act may be cited as the "D.C. Ambulatory Surgical Treatment Center Licensure Act".

TITLE I

PURPOSE AND SCOPE; DEFINITIONS.

Sec.102. Purpose and scope. The purpose of this act is to require licensure of all facilities, except as provided in section 103(a) of this act, in which surgical procedures are performed on persons who are not admitted as inpatients to a hospital, and to provide minimum standards for the establishment and maintenance of such facilities.

Sec. 103. Definitions. For the purposes of this act:

(a) "Ambulatory Surgical Treatment Center" means any institution, place or building devoted primarily to the maintenance and operation of facilities for the performance of surgical procedures on an outpatient basis including facilities where family planning procedures are performed. Such facility shall not provide beds or other accommodations for the overnight stay of patients. Individual patients shall be discharged in an ambulatory condition without danger to the continued well being of the patients or shall be transferred to a hospital.

The term "Ambulatory Surgical Treatment Center" does not include: (1) any institution or building licensed as a hospital, under the Act of April 20, 1908 (35 Stat. 64; D.C. Code, Sec. 32-301); (2) hospitals maintained by the District of Columbia; (3) any place, agency, clinic or practice, public or private, profit or non-profit, devoted exclusively to the performance of dental or oral surgical procedures; (4) any professional office wherein a physician customarily performs surgical procedures for minor diagnosis and treatment of dermatological or podiatric condition or cystoscopies or proctoscopies

(b) "Center" means an Ambulatory Surgical Treatment Center.

(c) "Department means the Department of Human Resources of the District of Columbia.

(d) "Director" means the Director of the Department of Human Resources, or his designee.

(e) "Mayor" means the holder of the Office of the Mayor of the District of Columbia, pursuant to section 421 of the District of Columbia Self-Government and Governmental Reorganization Act (137 Stat. D.C. Code. sec. 1-161), or his designated agent.

TITLE II

LICENSURE OF AMBULATORY SURGICAL TREATMENT CENTERS.

Sec. 201. License required. No person shall operate on an Ambulatory Surgical Treatment Center without having in effect a license issued by the Mayor in accordance with this act. Such license shall be renewed annually and posted conspicuously within the premises of the facility. The annual fee for the license shall be one hundred dollars ($100.00).

Sec. 202. Application. Application for license to operate a center shall be made to the Mayor on forms furnished by him and shall include, but not be limited to, the following information:

(a) the name and address of the facility;

(b) the names and addresses of the owners of the facility. If the owner is

a Corporation, the application shall include the names and addresses of all officers of the corporation and all persons having a ten percent (10%) or more ownership interest;

(c) the medical and surgical procedures for which the center is to be licensed;

(d) the names and addresses of the center's administrator and medical director;

(e) evidence of capacity to provide emergency care or secure appropriate emergency care expeditiously for a patient. Such evidence shall include, a minimum:

(1) provision of appropriately trained staff, space, equipment and supplies to stabilize the condition of a patient prior to transport to a hospital; and

(2) agreement(s) between the center and a hospital not more than twenty (20) minutes ambulance driving time from the center that the hospital will admit all center patients needing emergency care, or proof that all physicians using the center have, or a center staff physician is always available who has, admitting privileges at a hospital not more than twenty (20) minutes ambulance time from the center.

Sec.203. Financial responsibility. Each applicant for a surgical center license shall, as a condition to the issuance of such license, submit evidence satisfactory to the Mayor of liability insurance coverage of no less than $100.00 per occurrence and $300.000 in the aggregate.

Sec 204. Refusal to Issue or Renew License; Revocation or Suspension

The mayor may refuse to issue, or to renew; or may revoke or suspend, the license of a center for any of the following reasons:

(a) violation of any provision of this act;

(b) knowingly furnishing false or misleading information to the Mayor, or failure to furnish information requested;

(c) knowingly furnishing false misleading or fraudulent information regarding the center to the public;

(d) imminent danger to public health or welfare;

(e) failure to maintain acceptable standards of cleanliness maintain acceptable standards of cleanliness and sanitation required of surgical units.

Sec. 205. Notice and hearings. When the Mayor determines that there are grounds for denial, suspension or revocation of a license under this act, the Mayor

shall serve upon the applicant or licensee a written notice of proposed action informing the applicant or licensee of his right to request, within seven (7) days from service of notice, a hearing before the Mayor at which time the applicant or licensee may show cause why his application for a license or renewal of his license should not be denied or his license not suspended or revoked. The notice to the applicant or licensee shall also specify that action, whether it be denial, suspension or revocation, is contemplated, the grounds therefor, and that such proposed action shall be taken in no hearing is requested.

TITLE III

CENTER ADMINISTRATION AND MANAGEMENT

Sec. 301. Organization of center.

(a) Each surgical center shall have a governing board formally organized in accordance with written by-laws. Such by-laws shall establish procedures for the appointment of the center administrator and medical director, for the admission of physicians to practice at the center, for revocation or suspension of a physician's center privileges, and for patient admissions and discharge. A copy of the by-laws shall be available for public inspection at all times.

(b) A center owned by a sole proprietorship, partnership or professional medical corporation shall not be required to have a governing board, but the center

shall have written procedures available for public inspection at all times, governing the admission for physicians to practice at the center, for revocation or suspension of a physician's center privileges, and for patient admissions and discharge.

Sec. 302. Center operation. Responsibility for operation of the center shall rest with the center administrator, except that direct patient care shall be the responsibility of the medical director. The administrator may not also serve as medical director.

Sec. 303 Staffing. Each center shall have an administrator and a medical director. The director must be a physician licensed to practice the healing art n the District of Columbia. There shall be sufficient professional staff to perform services for which the center is licensed in conformity with generally accepted standards of good medical practice. No clinical procedure may be performed unless sufficient professional staff is on duty to both carry out the procedure and render any emergency services that may be needed, including, if necessary, accompanying the patient to a hospital.

Sec. 304. Pre-operative requirements.

(a) A current statement in writing indicating informed consent and a signed authorization by the patient for the performance of a surgical procedure shall be procured and shall form a part of the patient's medical records.

(b) Appropriate medical history shall be obtained and physical examination shall be sufficient to determine the state of health of the patient prior to performance of the surgical procedure.

(c) Appropriate current laboratory tests shall be performed on patients in accordance with standards medical practice.

(d) Written policies and procedures for coordination or referral from various sources, including transmittal of appropriate patient records, shall be established by the Medical Director and adhered to by all members of the staff.

Sec. 305. Post-Operative requirements.

(a) Each center shall establish a progress to ensure post surgical treatment for each individual treated in the center and shall include (but is not limited to) the following written instructions to be issued to all patients:

(1) symptoms of complications to be looked for;

(2) activities to be avoided, if any;

(3) specific telephone number to be used by the patient should any complication occur or question arise;

(4) reminder to make arrangements with the center or the patient's personal physician for a post-operative check-up.

(b) Following the surgical procedure, patients shall be observed in the center for a period of time sufficient to ensure that no immediate post-operative complications are present following the administration of anesthetics.

(c) Patients in whom any adverse condition exists or in whom complication is known or suspected to have occurred during or after the performance of the surgical procedure shall be transferred and admitted to a hospital, if good medical practice so indicates.

Sec. 306. Center records and report requirements.

(a) Accurate and complete clinical records shall be maintained for each patient and all entries in the clinical record shall be made at the time the surgical procedure is performed and when care, treatment, medications or other medical services are given. The record shall satisfy the diagnosis or need for medical services. It shall include where applicable but not be limited to the following:

(1) patient identification;

(2) admitting information including patient history and physical examination;

(3) signed informed consent;

(4) signed and dated physician orders;

(5) laboratory tests, pathologist's report of tissue, and radiologist report of x-rays, as indicated by good medical practice;

(6) anesthesia record, if general anesthesia is used;

(7) operative record as indicated by good medical practice;

(8) surgical medication and medical treatments;

(9) recovery room notes;

(10) physician and nurses' progress notes;

(11) condition at time of discharge; and

(12) patient instructions.

(b) Accounting procedures shall be carried out in accordance with an accepted accounting system providing appropriate statistical information and shall permit satisfactory auditing.

(c) Each facility shall submit reports on a regular basis containing such pertinent clinical and statistical data as may reasonably be required by the Department, including mortality and morbidity data.

(d) All patient records shall be confidential, unless the patient gives written consent for their release, except as provided in section 501 of this act.

(e) All hospital licensed under the laws of the District of Columbia, including D.C. General Hospital, shall regularly report to the Department any incidence of morbidity in cases treated at a center.

TITLE IV

CENTER EQUIPMENT AND MAINTENANCE

Sec. 401. Supplies and equipment for care. There shall be sufficient equipment for patient care according to types of patients, service programs, and procedures. There shall be adequate monitoring equipment, oxygen and related items available within the surgical and post-operative recovery area. Cardiac-pulmonary resuscitation equipment with trained personnel shall be available in facilities utilizing general anesthesia. There shall be written procedures governing the care, use, sterilization, storage and disposal of all materials. There shall be written procedures to assure safety in storage and use of inhalation anesthetics, medical gases, narcotics and medications. A program shall be formulated and implemented which shall acquaint all personnel with the established medication policies and procedures and assure enforcement.

Sec. 402. Environmental Health Standards

(a) Persons responsible for maintenance of the physical plant, including housekeeping, shall be specifically indentified.

(b) Treatment rooms shall have a minimum clear floor area sufficient to permit removal of a patient by stretcher, a lavatory or sink with handwashing facility with controls appropriate for mode sterility technique used by the facility shall be provided.

(c) Illumination shall provide at least the equivalent of 100 foot candles of light at the examining table, as well as in the surgical area.

(d) There shall be a preventive maintenance program for mechanical equipment and medical devices. This program of prevention maintenance should include, but is not limited to, regularly scheduled inspection of medical equipment.

(e) There shall be convenient handwashing facilities and/or necessary control valves to minimize the potential of cross contamination.

(f) An environmental monitoring program, which shall include environmental surveillance and infraction surveillance, shall be established and followed routinely.

TITLE V

MISCELLANEOUS PROVISIONS

Sec. 501. Inspection. The Mayor shall have the right to inspect any facility licensed under this act, any facility applying for a license under this act, and

all records maintained therein, at any reasonable time either with or without prior notice. The entry and inspection shall take place with the least possible disruption to the patients. Any information concerning the content of a facility's records shall not be released by the District of Columbia government until all patient names have been deleted.

Sec. 502. Prohibitions

(a) No surgical procedure requiring general anesthesia shall be performed in a center except under the immediate medical direction of a physician licensed to practice the healing art in the District of Columbia and who is a qualified anesthesiologist.

(b) If a center knows, or reasonably should know, that any patient was referred to it by a referral services which charged a fee for such referral, the facility shall immediately report all pertinent facts of such alleged referral to the Corporation Counsel of the District of Columbia.

(c) "Fee-Splitting", or the sharing of a fee between any physician, person, agency, or clinic, for any charge, services or referral by or with an ambulatory treatment center shall be prohibited.

Sec. 503. Penalty. Any person violating any provision of these regulations shall be fined not more than three hundred dollars ($300.00) or imprisoned for not more than ninety (90) days.

Sec. 504. Severability. Any paragraph or subparagraph or any elements thereof of any section and each section and each paragraph and/or subparagraph of each section are hereby is deemed as separate and independent.

Sec. 505. Effective date. This act shall take effect pursuant to the provisions of section 602(c) of the "District of Columbia Self-Government and Governmental Reorganization Act", approved December 24, 1773(_____Stat._____D.C. Code sec. 1-1-7(c)(1).