ALABAMA STATE COMMITTEE OF PUBLIC HEALTH
ALABAMA DEPARTMENT OF PUBLIC HEALTH
DIVISION OF LICENSURE AND CERTIFICATION
ADMINISTRATIVE CODE

CHAPTER 420-5-2
AMBULATORY SURGICAL TREATMENT FACILITIES

420-5-2-.01 General.

(1) Legal Authority for Adoption of Rules. Under and by virtue of authority vested in it by the Legislature of Alabama (Code of Ala. 1975, §§22-21-20, et seq.), the State Committee of Public Health does hereby adopt and promulgate the following rules governing outpatient surgical treatment centers licensed to operate in the State of Alabama.

(2) Definitions (a list of selected terms often used in connection with these Rules):

(a) AAC Rule means Alabama Administrative Code Rule.

(b) Administrator means a natural person who is the governing authority of a health care facility or a natural person who is designated by the governing authority of a health care facility. Such person must have sufficient authority to interpret and implement all policies of the owner or proprietor, and must be sufficiently qualified to perform those tasks. Such person shall be the addressee of all correspondence and inquiries from the State Committee of Public Health.

(c) Advisory Board. See Section 22-21-27 of Appendix.

(d) Ambulatory Surgical Center means any health care facility with the primary purpose of providing medically necessary or elective surgical care. Excluded from this definition are the offices of private physicians and dentists, including those organized as professional corporations, professional associations, partnerships, or sole proprietorships. Also excluded from this definition are health care facilities defined as hospitals under section (i), below.

(e) "Specialized Ambulatory Surgical Center" means an ambulatory surgical center that provides surgical services in an exclusive specialty, such as orthopedics, pediatrics, gynecology and obstetrics, ophthalmology, or other specialized practice.

(f) Health Care Facility means any structure, building, office, or portion thereof where medical procedures are performed.

(g) Board or State Board of Health means the State Committee of Public Health.

(h) Facilities for Surgical Treatment of Patients Not Requiring Hospitalization as referred to in these rules means "Ambulatory Surgical Centers."

(i) Governing Authority means the owner or proprietor of health care facility, or the body, such as a board of directors, which exercises control over a health care facility on behalf of its owner or proprietor.

(j) Hospital means a health care facility duly licensed by the State Committee of Public Health under Chapter 420-5-7, Alabama Administrative Code, to offer to the public not less than 15 beds and other facilities for use in diagnosis and treatment of persons in need of acute care for illness, disease, injury, deformity, infirmity, abnormality or pregnancy. A health care facility meets this definition only if the facility is licensed to offer and actually does offer such care or service for not less than 24 consecutive hours in any week to two or more individuals not related by blood or marriage to the owner and/or administrator of the facility.

(k) Medical Director (Qualified) means the physician responsible for planning, organizing, conducting, and directing the medical affairs of the ambulatory surgical center. The Physician-Director must meet either of the following requirements to be considered qualified:

1. Is Board Eligible or Board Certified in surgery or anesthesia and has had at least 12 months of experience or training in the care of patients in a surgical environment; or

2. During the 5 year period prior to the effective date of these rules, has served for at least 12 months as director of a surgical unit.

However, in those areas where a qualified medical Director is not available to direct an ambulatory surgical center, another physician may direct the facility, subject to the approval of the State Committee of Public Health.

(l) Medical Staff means currently licensed physicians and dentists and podiatrists who are privileged by agreement with licensee to attend patients within the institution.

(m) Patient means a person admitted to the ambulatory surgical center by and upon the recommendation of a physician and who is to receive the medical care recommended by the physician.

(n) Pharmacy means a place licensed by the Alabama State Board of Pharmacy in which prescriptions, drugs, medicines, chemicals, and poisons are sold, offered for sale, compounded or dispensed, and shall include all places whose title may imply the sale, offering for sale, compounding or dispensing of prescriptions, drugs, medicines, chemicals, or poisons.

(o) Pharmacist means a person currently licensed to practice pharmacy in Alabama under the provisions contained in current state statutes.

(p) Physician means a person currently licensed by the Medical Licensure Commission, State of Alabama, to practice medicine and surgery.

(q) Podiatrist means a person currently licensed to practice podiatry in Alabama under the provisions of current state statutes.

(r) Registered Nurse (RN) means a person who holds an active registered nurse license issued by the Alabama Board of Nursing or a multistate registered nurse license issued by another Nurse Licensure Compact party state.

(s) Licensed Practical Nurse (LPN) means a person currently licensed in the State of Alabama in accordance with Code of Ala. 1975, §§34-21-1, et seq.

(t) These Rules means Rules 420-5-2-01 through 420-5-2-.04, Chapter 420-5-2, Ambulatory Surgical Treatment Facilities, Alabama Administrative Code.

(3) Type of License.

(a) Regular License. A regular license may be issued by the State Committee of Public Health after the Committee has determined that the outpatient surgical treatment center is in substantial compliance with the rules herein adopted.

(b) Temporary License.

1. At its discretion, the State Board of Health may issue a license which indicates a temporary condition of non-compliance with these rules. A temporary license may be issued when the Committee is satisfied that preparations are being made to qualify for a regular license or as provided below, and that notwithstanding the deficiencies, appropriate measures have been taken to minimize any threat to the health and safety of patients

and personnel. A temporary license may be granted for a calendar year, but not to exceed five (5) successive 1 year terms.

An ambulatory surgical center may be issued a temporary license prior to opening if in compliance with the provisions of these rules relative to the physical plant and staffing. The license issued under AAC Rule 420-5-2-.01(3)(b) shall be valid until the issuance of a regular license or December 31 of the year in which the license was issued unless suspended or revoked prior to that date. A temporary license may be reissued under AAC Rule 420-5-2-.01(3)(b) when it has been demonstrated to the Board that specific efforts are being made to comply with these rules.

2. An ambulatory surgical center which is in existence on the effective date of these rules may be issued a temporary license under one or more of the following conditions:

(i) Where failure to qualify for a regular license is due to the requirements as herein required.

(ii) Where the governing authority is making specific plans to establish an ambulatory surgical center which meets the rules or is actually in the process of meeting these rules.

(iii) Where a formal appeal of an administrative decision is pending action by the State Committee of Public Health.

(c) Probational License. At its discretion, the State Board of Health may issue a probational license under one or more of the following conditions, and then only when the Board is satisfied, notwithstanding its deficiencies, appropriate measures have been taken to minimize any threat to the health and safety of patients and personnel. A probational license may be granted for a calendar 1 year not to exceed two successive one-year terms:

1. When the Committee has reason to believe the operation is questionable.

2. When the Committee has reason to believe the facility is not making specific plans to comply with these rules or the ambulatory surgical center's ability to comply is questionable.

3. Conduct or practices not deemed by the Committee to be in the patients' best interest, e.g., the owner(s), physicians, or employee(s) are determined to be

unethical, have committed fraud or abuse, or have been found to be aiding or abetting the commission of an illegal act.

(4) Licensing.

(a) Application for License. All ambulatory surgical centers shall apply for licensure on a form designated by the State Committee of Public Health. The application will reflect all data required by Code of Ala. 1975, §§22-21-20, et seq., a copy of which is contained in Appendix.

(b) Fee. See Section 22-21-24 of Appendix.

(c) Name of Facility. Every ambulatory surgical center shall be designated by a permanent and distinctive name which shall not be changed until an application has been completed and approved. Words in the name of the center that may reflect a different type of facility or service shall not be used.

(d) Separate License. When more than one facility is operated under the same operating entity, a separate license shall be required for each facility. Separate licenses are not required for separate buildings on the same ground used by the same facility.

(e) Reissuance of License.

1. The following changes in the status of the facility will require issuance of a new license, upon application and payment of licensure fee (if applicable) as required by current statutes:

(i) Change in facility ownership or operating entity (fee required).

(ii) Change in name (no fee required).

(iii) Change of locality (no fee required).

2. The governing authority shall file with the State Committee of Public Health, an application for license 30 days before any proposed change requiring a new license, in order to permit processing of the application and issuance of the license on the desired effective date of the change.

(f) Specialized Ambulatory Surgical Center. Ambulatory surgical centers that limit their practice to a particular medical specialty may apply for licensure as a specialized ambulatory surgical center. A specialized ambulatory surgical center shall have a medical staff and other professional and technical personnel qualified to provide surgical treatment

and services in the specialty area. A facility licensed as a specialized ambulatory surgical center must limit its surgical practice to its designated medical specialty. A specialized ambulatory surgical center is required to meet all other requirements of these rules for ambulatory surgical centers.

(5) Right of Appeal.

(a) Review of Licensure Inspection Reports and Statement of Deficiencies. In cases of errors or differences of opinions as to interpretations and/or applicability of these rules, the licensee may request orally or in writing a review of such points of difference. Opportunity for prompt review shall be afforded by the Alabama Department of Public Health and, where applicable, letters of clarification sent to the licensee.

(b) Administrative Decisions.

1. The Licensure Advisory Board will provide an opportunity for a fair hearing to every licensee who is dissatisfied with administrative decisions made in the application of these rules.

2. The licensee shall present his complaint in writing, within 30 days, and may, at his discretion, be present during the hearing, and/or be represented by legal counsel.

3. The licensee may present such evidence as may be deemed necessary and pertinent to his request.

4. Upon completion of the hearing, the Licensure Advisory Board shall present its findings, conclusions, and recommendations to the State Committee of Public Health for final action.

(c) Decisions Made by State Committee of Public Health. Decisions rendered by the State Committee of Public Health in respect to licensure status or amendments to these rules shall be final and binding.

(6) Exceptions.

(a) Research Projects Application for Waiver. Any licensee who is or contemplates being engaged in a bona fide research program which may be in conflict with one or more specific provisions of these rules may make application for waiver of the specific provisions in conflict. Application for waiver shall be made in writing to the Licensure Advisory Board who shall, upon completion of its investigation, send its findings, conclusions and recommendations to the State Committee of Public Health for final action.

(b) Exceptions to Regulations. At its discretion, the State Committee of Public Health may grant an exception to, or modify the application of, one or more provisions of these rules or reference codes for a period and under conditions, if any, determined by the Committee. The exceptions or modifications shall be based on hardship, impracticality, or economic infeasibility in complying with the rules. The center's request shall be in writing, shall state the specific provisions for which the exception or modification is requested, and reason for each requested exception or modification.

(c) Disclosure of Information. Information received through on-site inspections may be disclosed to any interested party upon written request. Information received through means other than inspections shall not be publicly disclosed.

Author: L. O'Neal Green
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