

**Senate Study Bill 3021 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
STATE GOVERNMENT BILL BY  
CHAIRPERSON DANIELSON)

**A BILL FOR**

1 An Act relating to the licensure of ambulatory surgical  
2 centers, providing fees and penalties, and including  
3 effective date provisions.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 135C.33, subsection 5, paragraph a, Code  
2 2011, is amended by adding the following new subparagraph:  
3 NEW SUBPARAGRAPH. (6) An employee of an ambulatory surgical  
4 center licensed under chapter 135P.

5 Sec. 2. NEW SECTION. 135P.1 **Definitions.**

6 1. "*Ambulatory surgical center*" means any distinct facility  
7 that operates exclusively for the purpose of providing surgical  
8 services to patients not requiring hospitalization and in which  
9 the expected duration of services would not exceed twenty-four  
10 hours following an admission.

11 2. "*Department*" means the department of inspections and  
12 appeals.

13 3. "*Governmental unit*" means the state, or any county,  
14 municipality, or other political subdivision, or any  
15 department, division, board, or other agency of any of the  
16 foregoing.

17 Sec. 3. NEW SECTION. 135P.2 **Purpose.**

18 The purpose of this chapter is to protect the public  
19 health, safety, and welfare by providing for the development,  
20 establishment, and enforcement of basic standards for the  
21 operation, construction, and maintenance of ambulatory surgical  
22 centers.

23 Sec. 4. NEW SECTION. 135P.3 **Licensure.**

24 No person or governmental unit, acting severally or jointly  
25 with any other person or governmental unit, shall establish,  
26 operate, or maintain an ambulatory surgical center in this  
27 state without obtaining a license as provided under this  
28 chapter.

29 Sec. 5. NEW SECTION. 135P.4 **Application for license — fee.**

30 An ambulatory surgical center license shall be obtained from  
31 the department. Applications for a license shall be upon such  
32 forms and shall include such information as the department may  
33 reasonably require, which may include affirmative evidence  
34 of compliance with this chapter, other statutes, and rules  
35 as may be applicable. Each application for license shall be

1 accompanied by the required license fee which shall be credited  
2 to the general fund of the state. The initial and annual  
3 license fee shall be five hundred dollars.

4     **Sec. 6. NEW SECTION. 135P.5 Issuance and renewal of**  
5 **license.**

6     1. Upon receipt of an application for license and the  
7 license fee, the department shall issue a license if the  
8 applicant and the ambulatory surgical center comply with this  
9 chapter and the rules of the department. The department shall  
10 renew a license upon payment of the five hundred dollar annual  
11 license fee and filing of an application form available from  
12 the department.

13     2. A license shall be either general or restricted in form.  
14 A license shall be issued only for the premises and persons  
15 or governmental units named in the application and is not  
16 transferable or assignable except with the written approval of  
17 the department. A license shall be posted in a conspicuous  
18 place on the licensed premises as prescribed by rule of the  
19 department.

20     **Sec. 7. NEW SECTION. 135P.6 Denial, suspension, or**  
21 **revocation of license — hearings and review.**

22     1. The department may deny, suspend, or revoke a license  
23 in any case where it finds that there has been a substantial  
24 failure to comply with this chapter or the rules or minimum  
25 standards adopted pursuant to this chapter.

26     2. The procedure governing notice and hearing to deny  
27 an application or suspend or revoke a license shall be in  
28 accordance with the rules adopted by the department. A full  
29 and complete record shall be kept of the proceedings and of  
30 any testimony. The record of any proceeding pursuant to this  
31 section need not be transcribed unless judicial review is  
32 sought. A copy or copies of the transcript may be obtained by  
33 an interested party on payment of the cost of preparing the  
34 copy or copies.

35     **Sec. 8. NEW SECTION. 135P.7 Rules.**

1 1. The department shall adopt rules setting out the  
2 standards for ambulatory surgical centers to be licensed under  
3 this chapter. The rules shall state, at a minimum, that an  
4 ambulatory surgical center shall meet the federal requirements  
5 for conditions of participation in the federal Medicare program  
6 for ambulatory surgical centers under 42 C.F.R. pt. 416.

7 2. The department shall adopt rules to govern the notice  
8 and hearing procedure when a license is denied, suspended, or  
9 revoked.

10 3. The rules shall require ambulatory surgical centers  
11 to report ambulatory data to the department of public health  
12 or the designated intermediary for the purpose of public  
13 dissemination of health data as initially authorized in 1996  
14 Iowa Acts, chapter 1212, section 5, subsection 1, paragraph "a",  
15 subparagraph (4).

16 4. An ambulatory surgical center which is in operation at  
17 the time of promulgation of any applicable rules or minimum  
18 standards under this chapter shall be given a reasonable time,  
19 not to exceed one year from the date of promulgation, within  
20 which to comply with such rules and minimum standards.

21 5. The department shall enforce the rules.

22 Sec. 9. NEW SECTION. 135P.8 **Inspections.**

23 1. The department shall make or cause to be made inspections  
24 or complaint investigations of ambulatory surgical centers as  
25 the department deems necessary in order to determine compliance  
26 with this chapter and applicable rules.

27 2. A department inspector shall not participate in an  
28 inspection or complaint investigation of an ambulatory surgical  
29 center in which the inspector or a member of the inspector's  
30 immediate family works or has worked within the last two years  
31 or in which the inspector or the inspector's immediate family  
32 has a financial ownership interest. For the purposes of this  
33 section, "*immediate family member*" means a spouse, natural or  
34 adoptive parent or grandparent, child, grandchild, sibling,  
35 stepparent, stepchild, or stepsibling.

1     Sec. 10. NEW SECTION. 135P.9 **Employee background checks.**

2     1. An ambulatory surgical center shall comply with child or  
3 dependent adult abuse information and criminal record checks  
4 and evaluations as provided in section 135C.33.

5     2. An ambulatory surgical center licensed in this state  
6 may access the single contact repository established by the  
7 department pursuant to section 135C.33 as necessary for the  
8 ambulatory surgical center to perform record checks of persons  
9 employed or being considered for employment by the ambulatory  
10 surgical center.

11    Sec. 11. NEW SECTION. 135P.10 **Confidentiality.**

12    The department's final inspection or investigation findings  
13 or the final survey findings of an accrediting body, authorized  
14 by the department in rule, with respect to compliance by an  
15 ambulatory surgical center with requirements for licensing  
16 or accreditation shall be made available to the public in a  
17 readily available form and place. Other information relating  
18 to an ambulatory surgical center obtained by the department  
19 which does not constitute the department's findings from an  
20 inspection or investigation of the ambulatory surgical center  
21 or the final survey findings of the accrediting body shall  
22 not be made available to the public, except in proceedings  
23 involving the denial, suspension, or revocation of a license  
24 under this chapter. The name of a person who files a complaint  
25 with the department shall remain confidential and shall not  
26 be subject to discovery, subpoena, or other means of legal  
27 compulsion for its release to a person other than department  
28 employees or agents involved in the investigation of the  
29 complaint.

30    Sec. 12. NEW SECTION. 135P.11 **Judicial review.**

31    Judicial review of an action of the department may be sought  
32 in accordance with chapter 17A. Notwithstanding the provisions  
33 of chapter 17A, petitions for judicial review may be filed  
34 in the district court of the county in which the ambulatory  
35 surgical center is located or to be located and the status quo

1 of the petitioner or licensee shall be preserved pending final  
2 disposition of the judicial review matter.

3 Sec. 13. NEW SECTION. 135P.12 **Penalty.**

4 Any person establishing, conducting, managing, or operating  
5 any ambulatory surgical center without a license commits a  
6 serious misdemeanor, and each day of continuing violation after  
7 conviction shall be considered a separate offense.

8 Sec. 14. NEW SECTION. 135P.13 **Injunction.**

9 Notwithstanding the existence or pursuit of any other  
10 remedy, the department may, in the manner provided by law,  
11 maintain an action in the name of the state for injunction  
12 or other process against any person or governmental unit to  
13 restrain or prevent the establishment, conduct, management, or  
14 operation of an ambulatory surgical center without a license.

15 Sec. 15. EFFECTIVE DATE. This Act takes effect July 1,  
16 2013.

17 **EXPLANATION**

18 This bill relates to ambulatory surgical centers. The bill  
19 defines "ambulatory surgical center" using the definition  
20 provided by Medicare. The bill states the purpose of new Code  
21 chapter 135P is to protect public health, safety, and welfare  
22 by providing basic standards for operating, constructing, and  
23 maintaining an ambulatory surgical center.

24 The bill requires that any person or governmental unit  
25 acting separately or together that establishes, conducts, or  
26 maintains an ambulatory surgical center must have a license as  
27 provided under the Code chapter. The person or governmental  
28 unit shall obtain a license from the department of inspections  
29 and appeals (DIA). The application shall include information  
30 that the DIA may reasonably require including affirmative  
31 evidence of compliance with new Code chapter 135P, other  
32 statutes, and rules. An application must be accompanied by the  
33 required initial license fee of \$500. An annual license fee is  
34 also \$500. The license fees are to be credited to the state's  
35 general fund. The bill also provides that the DIA shall issue

1 a license upon receiving an application if the applicant  
2 and the ambulatory surgical center comply with Code chapter  
3 135P and the rules of the department. A licensee receives  
4 reapproval upon payment of the \$500 license fee and filing  
5 an application form available from the DIA. Licenses are  
6 general or restricted in form. A license will be issued only  
7 for a premises and persons or governmental units named in the  
8 application and the license is not transferable or assignable  
9 without written approval of the DIA. The bill requires that  
10 a license be posted in a conspicuous place on the licensed  
11 premises as prescribed by department rules.

12 The bill states that the DIA may deny, suspend, or revoke a  
13 license when it finds the licensee or applicant substantially  
14 failed to comply with Code chapter 135P or rules or minimum  
15 standards adopted pursuant to the Code chapter. The bill  
16 states that the DIA rules will govern the procedure for notice  
17 and hearing to deny an application for a license or to revoke  
18 or suspend a license. The bill states a full and complete  
19 record of the proceedings shall be kept, but the record does  
20 not need to be transcribed unless judicial review is sought. A  
21 transcript of the proceeding may be obtained by an interested  
22 party on payment of the cost of preparing the copy or copies.

23 The bill provides that the DIA shall adopt rules setting  
24 the standards for an ambulatory surgical center to be licensed  
25 under the Code chapter. The rules must require that an  
26 ambulatory surgical center shall meet the federal requirements  
27 for conditions of participation in the federal Medicare  
28 program for ambulatory surgical centers under 42 C.F.R.  
29 pt. 416. The DIA must also establish, by rule, the notice  
30 and hearing procedure if a license is denied, revoked, or  
31 suspended. The DIA must also enforce the rules. The rules  
32 established by the DIA shall require ambulatory surgical  
33 centers to report ambulatory data to the department of public  
34 health or the designated intermediary for purposes of public  
35 health dissemination of health data. The bill states that

1 an ambulatory surgical center in operation at the time of  
2 promulgation of applicable rules or standards under Code  
3 chapter 135P shall be given a reasonable time, not to exceed  
4 one year, to comply with the rules and minimum standards.

5 The bill provides for inspections of ambulatory surgical  
6 centers. The bill requires the DIA to make, or cause to be  
7 made, inspections or complaint investigations as the DIA deems  
8 necessary to determine compliance with Code chapter 135P and  
9 the applicable rules. The DIA inspectors must not participate  
10 in an inspection or complaint investigation of an ambulatory  
11 surgical center if the inspector or a member of the inspector's  
12 immediate family works or has worked at the ambulatory surgical  
13 center within the last two years. A DIA inspector also must  
14 not participate in an inspection or complaint investigation  
15 of an ambulatory surgical center in which the inspector or  
16 the inspector's immediate family has a financial or ownership  
17 interest.

18 The bill provides that an ambulatory surgical center shall  
19 comply with abuse and criminal background checks as provided  
20 in Code section 135C.33. The bill also states that a licensed  
21 ambulatory surgical center is allowed to access the single  
22 contact repository as is necessary to perform record checks of  
23 employees or potential employees.

24 The bill provides for the confidentiality of the DIA records  
25 of ambulatory surgical centers. The bill states that the DIA's  
26 final inspection or investigation findings, or survey findings  
27 of an accredited body authorized by the DIA rules, regarding  
28 an ambulatory surgical center's compliance with requirements  
29 for licensing or accreditation must be made available to the  
30 public in a readily available form and place. The bill states  
31 that other information acquired by the DIA relating to an  
32 ambulatory surgical center shall not be made available to the  
33 public except in proceedings involving denial, suspension,  
34 or revocation of a license. The bill also provides that the  
35 name of a person who files a complaint with the DIA shall



1 remain confidential regardless of means of legal compulsion  
2 for its release, other than the release of the name to the DIA  
3 employees or agents involved in investigating a complaint.

4 The bill provides that judicial review may be sought  
5 pursuant to Code chapter 17A, but petitions for judicial review  
6 may be filed in the district court of the county in which the  
7 ambulatory surgical center is located or is to be located,  
8 notwithstanding the terms of Code chapter 17A. The bill  
9 provides that the status quo of the petitioner or licensee is  
10 preserved pending final disposition in court.

11 The bill establishes a penalty for any person establishing,  
12 conducting, managing, or operating an ambulatory surgical  
13 center without a license. The person is guilty of a serious  
14 misdemeanor and each day of the continuing violation after a  
15 conviction is a separate offense.

16 The bill provides that the DIA may maintain an action in  
17 the name of the state for an injunction or other process  
18 against a person or governmental unit to restrain or prevent  
19 the establishment, conduct, management, or operation of an  
20 unlicensed ambulatory surgical center.

21 The bill provides that the Act takes effect July 1, 2013.