

STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
425 FIFTH AVENUE NORTH
NASHVILLE, TENNESSEE 37243-0485

April 3, 2000

Opinion No. 00-063

Status of Ambulatory Surgical Treatment Center License After Closure

QUESTION

Tenn. Code Ann. § 68-11-206(5) provides that a license to operate an ambulatory surgical treatment center shall expire on June 30 following the date of issuance. Tenn. Code Ann. § 68-11-206(5) further provides that such license may be renewed from year to year. If an ambulatory surgical treatment center voluntarily closes and discontinues services to patients, what is the legal status of its license between the date it closes and June 30 of the following year?

OPINION

The license of an ambulatory surgical treatment center that voluntarily closes and discontinues services to patients is terminated by the center abandoning the business for which it was licensed.

ANALYSIS

The Legislature provides for the licensure and regulation of certain types of health and related facilities, including ambulatory surgical treatment centers, pursuant to Tenn. Code Ann. § 68-11-201 *et seq.* The Legislature has expressly granted licensure authority to the Department of Health (“Department”) and the Board for Licensing Health Care Facilities (“Board”). Tenn. Code Ann. §§ 68-11-202, 68-11-206. The process by which such health and related facilities may obtain a license from the Department is set out in Tenn. Code Ann. § 68-11-206.

The Board may recommend and approve the issuance of a license if the applicant demonstrates that it “is of reputable and responsible character and able to comply with the minimum standards” for its facility type and with the applicable regulations promulgated by the Board. Tenn. Code Ann. § 68-11-206(1), (2). The Board may hold a hearing on an application and conduct its own investigation, to determine whether or not a license ought to be granted. Tenn. Code Ann. § 68-11-206(2). If, after hearing, the Board finds that the applicant complies and will in the future comply with the applicable statutory and regulatory requirements, then the Board shall recommend

and approve the issuance of a license. Tenn. Code Ann. § 68-11-206(4).

A license to operate an ambulatory surgical treatment center expires on June 30 following the date of issuance. Tenn. Code Ann. § 68-11-206(5). Such license “may be renewed from year to year.” *Id.* The Board’s regulations state that “[t]he renewal of an ambulatory surgical treatment center license shall be contingent upon evidence of continued compliance with provisions of Title 68, Chapter 11, T.C.A. and these rules and regulations.” Tenn. Comp. R. & Regs. Chap. 1200-8-10-.04(3).

As indicated in Tenn. Code Ann. § 68-11-206(5), a license may terminate by expiration of the term for which it was granted. But a license may also be voluntarily abandoned or surrendered, and it may be terminated by the licensee abandoning the business for which he was licensed. 53 C.J.S. Licenses § 48 (1987), citing *Phoenix Assur. Co. v. Ludwig*, 113 S.W. 34, 87 Ark. 465 (1908) and *Wolf v. Runnels*, 38 A. 100, 90 Me. 253 (1897). Thus, the license of an ambulatory surgical treatment center that voluntarily closes and discontinues services to patients is terminated by the center abandoning the business for which it was licensed.

PAUL G. SUMMERS
Attorney General and Reporter

MICHAEL E. MOORE
Solicitor General

MICHELLE HOHNKE JOSS
Assistant Attorney General

Page 3

Requested by:

Linda B. Penny
Executive Director
Health Facilities Commission
500 James Robertson Parkway, Suite 760
Nashville, TN 37219