

(Rule 0720-20-.02, continued)

Code Annotated § 68-11-206(l), or as later amended, and all information required by the Commissioner.

- (d) The applicant must prove the ability to meet the financial needs of the facility.
 - (e) The applicant shall not use subterfuge or other evasive means to obtain a license, such as filing for a license through a second party when an individual has been denied a license or has had a license disciplined or has attempted to avoid inspection and review process.
 - (f) The applicant shall allow the ambulatory surgical treatment center to be inspected by a Department surveyor. In the event that deficiencies are noted, the applicant shall submit a plan of corrective action to the Board that must be accepted by the Board. Once the deficiencies have been corrected, then the Board shall consider the application for licensure.
- (3) Each ASTC, when issued a license, shall be classified according to the type of services rendered or category of patients served. The ASTC shall confine its services to those described in its license and shall advertise only the services which it is licensed to perform. The classification shall be listed on the license.
- (4) A proposed change of ownership must be reported to the department a minimum of thirty (30) days prior to the change. A new application and fee must be received by the department before the license may be issued.
- (a) For purposes of licensing, the licensee of an ASTC has the ultimate responsibility for the operation of the facility, including the final authority to make or control operational decisions and legal responsibility for the business management. A change of ownership occurs whenever this ultimate legal authority for the responsibility of ASTC operations is transferred.
 - (b) A change of ownership occurs whenever there is a change in the legal structure by which the facility is owned and operated and any ownership interest of the preceding or succeeding entity changes.
 - (c) Transactions constituting a change of ownership include, but are not limited to, the following:
 - 1. Transfer of the facility's legal title;
 - 2. Lease of the facility's operation;
 - 3. Dissolution of any partnership that owns, or owns a controlling interest in, the facility;
 - 4. One partnership is replaced by another through the removal, addition or substitution of a partner;
 - 5. Merger of a facility owner (a corporation) into another corporation where, after the merger, the owner's shares of capital stock are canceled;
 - 6. The consolidation of a corporate facility owner with one or more corporations; or,
 - 7. Transfers between levels of government.

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- (d) Transactions which do not constitute a change of ownership include, but are not limited to, the following:
 - 1. Changes in the membership of a corporate board of directors or board of trustees;
 - 2. Two (2) or more corporations merge and the originally licensed corporation survives;
 - 3. Changes in the membership of a non-profit corporation;
 - 4. Transfers between departments of the same level of government; or,
 - 5. Corporate stock transfers or sales, even when a controlling interest.
 - (e) Management agreements are generally not changes of ownership if the owner continues to retain ultimate authority for the operation of the facility. However, if the ultimate authority is surrendered and transferred from the owner to a new manager, then a change of ownership has occurred.
 - (f) Sale/lease-back agreements shall not be treated as changes in ownership if the lease involves the facility's entire real and personal property and if the identity of the lessee, who shall continue the operation, retains the same legal form as the former owner.
- (5) Renewal.
- (a) In order to renew a license, each ambulatory surgical treatment center shall submit to periodic inspections by Department surveyors for compliance with these rules. If deficiencies are noted, the licensee shall submit an acceptable plan of corrective action and shall remedy the deficiencies. In addition, each licensee shall submit a renewal form approved by the board and applicable renewal fee prior to the expiration date of the license.
 - (b) If a licensee fails to renew its license prior to the date of its expiration but submits the renewal form and fee within sixty (60) days thereafter, the licensee may renew late by paying, in addition to the renewal fee, a late penalty of one hundred dollars (\$100) per month for each month or fraction of a month that renewal is late; provided that the late penalty shall not exceed twice the renewal fee.
 - (c) In the event that a licensee fails to renew its license within the sixty (60) day grace period following the license expiration date, then the licensee shall reapply for a license by submitting the following to the Board office:
 - 1. A completed application for licensure;
 - 2. The license fee provided in Rule 0720-20-.02(2)(b); and
 - 3. Any other information required by the Health Services and Development Agency.
 - (d) Upon reapplication, the licensee shall submit to an inspection of the facility by Department of Health surveyors.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206(a)(5), 68-11-206, 68-11-209, 68-11-209(a)(1), 68-11-210, 68-11-216, and Chapter 846 of the Public Acts of 2008, §1.
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