Legislative History for Connecticut Act

2005

Act Number:	3	
Bill Number:	933	
Senate Pages:	Senate: 628, 716-717	**3**
House Pages:	House: 1138-1157	**20**
Committee:	Public Health: 394-397	**4**

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Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate and House of Representatives Proceedings

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S-506

CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
2005

VOL. 48
PART 3
608-963

Thank you, Mr. President. Continuing on Calendar Page 3, Calendar 50, S.B. 605, An Act Concerning the Awarding of Educational Doctoral Degrees by the Connecticut State University System, would move that item to the Consent Calendar.

THE CHAIR:

Hearing no objection, the item will be placed on the Consent Calendar.

SEN. LOONEY:

Thank you, Mr. President. Calendar 51, S.B. 847, Mr. President, would move to refer this item to the Committee on Government Administration and Elections.

THE CHAIR:

Hearing no objection, so ordered.

SEN. LOONEY:

Thank you, Mr. President, Calendar 52, S.B. 933, An Act Clarifying Licensing Requirements for Outpatient Surgical Facilities, would move this item to the Consent Calendar.

THE CHAIR:

Hearing no objection, the item will be placed on the Consent Calendar.

SEN. LOONEY:

On Page 3, Calendar 52, S.B. 933.

And the Resolution Expressing Sympathy on the death of Ben Muzio. HJ 93

THE CHAIR:

Thank you, Mr. Clerk.

THE CLERK:

And one other item on Calendar Page 4, Calendar 55, Substitute for H.B. 6489.

THE CHAIR:

Thank you, Mr. Clerk. The machine is open. Please vote on the Consent Calendar. It should be open. Do you got it open or no?

THE CLERK:

It should be.

THE CHAIR:

You want to reset it?

THE CLERK:

It should be okay now.

THE CHAIR:

Have Senator Ciotto, thank you. If all Members have voted, the machine will be closed. Clerk will please announce the tally.

THE CLERK:

Total number voting, 36. Necessary for passage, 19. Those voting "yea", 36; those vote "nay", 0. Absent or not voting, 0.

THE CHAIR:

The Consent Calendar is adopted. Mr. Majority Leader.

SEN. LOONEY:

Yes, thank you, Mr. President. I believe there may be announcements or points of personal privilege by the Members.

THE CHAIR:

Senator Freedman.

SEN. FREEDMAN:

Thank you, Mr. President. A point of personal privilege?

THE CHAIR:

Please proceed.

SEN. FREEDMAN:

Just congratulations to the Lady Huskies for their victory last night, and good luck to the men as they go into the NCAA, the Big East finals. I know they'll be as successful. Thank you.

THE CHAIR:

H-930

CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
2005

VOL. 48
PART 4
901-1207

On Page 4, Calendar Number 65, Senate Bill Number 933, AN ACT CLARIFYING LICENSING REQUIREMENTS FOR OUTPATIENT SURGICAL FACILITIES, Favorable Report of the Committee on Public Health.

DEPUTY SPEAKER GODFREY:

The distinguished Chairwoman of the Public Health Committee, Representative Sayers of the 60th District.

REP. SAYERS: (60th)

Thank you, Mr. Speaker. Mr. Speaker, I move the acceptance of the Joint Committee's Favorable Report and passage of the Bill in concurrence with the Senate.

DEPUTY SPEAKER GODFREY:

The question is on acceptance and passage in concurrence. Will you remark, Madam?

REP. SAYERS: (60th)

Thank you, Mr. Speaker. This Bill establishes, clarifies the circumstances under which an outpatient surgical facility may delay obtaining a license from the Department of Public Health until March 30th, 2007. I move adoption of the Bill.

DEPUTY SPEAKER GODFREY:

Will you remark further? Representative Beamon of the 72nd District.

REP. BEAMON: (72nd)

Thank you, Mr. Speaker. For the purposes of a legislative intent, I would like to, through you, frame a few questions to the esteemed Chairlady.

DEPUTY SPEAKER GODFREY:

Prepare yourself, Representative Sayers. Representative Beamon, proceed.

REP. BEAMON: (72nd)

Thank you, Mr. Speaker. Representative Sayers, I would just like to know, according to the file, it would seem that these facilities, before which are unnamed and unnumbered, would have the ability not only as you noted in bringing the Bill out to delay getting a license, but for two years they would not have to get a license, and that license, for purpose of clarification, would be a facility's license, which the facility's license is brought, comes through the Department of Public Health.

So through you, Mr. Speaker, is it correct that these facilities would operate without a license? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Sayers.

REP. SAYERS: (60th)

Thank you, Mr. Speaker. That is correct. These facilities are actually currently operating. This would clarify what criteria that they'd have to meet in order to apply for that license.

And there was, this Bill was basically passed last year, and there was inadvertently a change from an or to an and, and this Bill is basically to correct that. Thank you.

DEPUTY SPEAKER GODFREY:

Thank you, Madam. Representative Beamon, you have the floor.

REP. BEAMON: (72nd)

I thank the gentlelady for her answer, and therein lies a particular problem that I have with this Bill.

First of all, there are not that many other areas for which there's licensing that the State engages itself with for which we allow various entities doing business on behalf of the State to delay a license.

My goodness, if this happened with liquor permits or other types of permits that are given by a State agency, it's okay, according to this that even though this was negotiated out, that we could then step back and say, well, that's okay, come back within two years and you can get your license then. That's the first problem I have.

The second problem I have is that it seems to me that this may be a misunderstanding between two State agencies, the first being the Department of Health and the second being the Office of Healthcare Access, that each agency has a distinct function in order to allow these facilities.

And we're not talking here about candy stores. We're not talking about liquor stores. We're not talking about non-, in some way, life-threatening areas.

I would think many of the invasive surgeries that are done in these facilities should be under the auspices, not two years from now, but currently, by the Department of Public Health.

I really don't understand why this could happen, even though it's to clarify what happened last Session.

A facility license is a license which is given so you may operate a specific type of, according to this, surgery. It's, again, a delay in getting a license.

I have no idea as to what this might mean if there was a case of a legal suit, if there was a lawsuit, rather, as to what the State's liability may be because there was not a license at these facilities.

The OFA report does not give us an answer or an explanation as to how many of these facilities are out there. So through you, Mr. Speaker, a question to the Chair.

DEPUTY SPEAKER GODFREY:

Please proceed, Sir.

REP. BEAMON: (72nd)

Thank you, Mr. Speaker. And through you, is there a number of these facilities available for the purposes of legislative intent? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Sayers.

REP. SAYERS: (60th)

Thank you, Mr. Speaker. Currently, these facilities operate under the license of the physician. And it was really determined that there needs to be, that there probably are facilities that absolutely do need to be licensed.

The delay in the time to apply for license was given to these facilities so that they could basically meet the requirements of licensure.

So we do not currently know exactly how many of these facilities exist, but by creating this level of licensure and when these facilities apply, it will allow us to actually have and obtain that information. Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, Madam. Representative Beamon.

REP. BEAMON: (72nd)

Thank you, Mr. Speaker. Again, I thank the gentlelady for her answer. So by putting the word and in the legislation, that means that it, we, according to what I heard, we would not have a way of knowing

how many of these facilities are out there because some are operating under another cover of legal liability versus others which are operating that could in some way be licensed.

See, I'm not too bright with this, but I think in some ways that to clarify as the title indicates actually does not clarify the problem.

And it also seems to me that the Department of Health, they're very slow in going out licensing these facilities. If not, maybe I'm wrong, there probably wouldn't be a need for this today, if they would go out and work with OCA and license these facilities.

So it's okay if you're in a surgical environment to operate without a license, and we're saying that's okay, it's all right.

Basically what we're saying then is why should any of the others have a facility license if, that troubles me a bit.

You know, another, there's another aspect here that troubles me as well, and that is we allow any operating facility in existing law from July 1st, 2003, to go all the way to 2007 without having a license,

even though somebody must be regulating these activities. That's a little troubling as well.

And the surgery, it's not like, again it's a liquor store or a night club or even a golf course or it's the drawing of blood.

It's a surgical facility and we as the State of Connecticut, we're saying here that we can change the rules today and allow individuals to continue to operate without a license.

My final question, through you, Mr. Speaker, to Representative Sayers, through you, Mr. Speaker, if I may, again, for the purposes of clarification, I would like to know what is the difference between a facility license for which these entities are working on getting and this legislation says they can get by 2007 versus what they have currently. Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Sayers.

REP. SAYERS: (60th)

Thank you, Mr. Speaker. As I indicated, currently they do not have a license. They operate under the license of the physician.

A physician's license is determined by his license to practice in the Physician Practice Act. It was, I think some of the concerns that you identified in your testimony were the concern of the Department, and that's why they determined that these facilities should need a facility license in order to operate that would specifically spell out the requirements that they needed in order to provide this type of service.

So that was why this legislation was initiated. Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, Madam. Representative Beamon.

REP. BEAMON: (72nd)

And thank you, Mr. Speaker. And I thank the Representative for her answer. But in her answer I found just one more question, so through you, Mr. Speaker, is it possible that these facilities can operate without a CON, a certificate of need? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Sayers.

REP. SAYERS: (60th)

Thank you, Mr. Speaker. Yes, these facilities currently are operating, some of them, not all of them, are under a waiver of the certificate of need. Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Beamon.

REP. BEAMON: (72nd)

And I thank the gentlelady for her nice brief answer. I also understand in the legislation that we passed that hospitals and other medical facilities can already have this, they can have this already without having to go through both.

Because I guess what we're trying to do here by clarifying is to get OCA to talk to the Department of Public Health, to have the Department of Health go out and license those facilities that are currently operating without a license.

I believe that's what we're doing here this afternoon, and I have no problems with that, but there again, it seems to me that this is something that someone wanted, and I understand it's been negotiated out, but somebody wanted this, whether it was two or three facilities or five facilities.

Somebody wanted this. And by them wanting this, there's a different standard, it seems, when it comes to these facilities than it comes versus mom-and-pa establishments which are licensed by the State of Connecticut.

That licensing process would not allow any person, any business entity, any corporation, any LLC, any nonprofit to operate without a license.

No matter what we call it here today, we're changing the rules to allow entities to operate without licenses. That is a little dangerous.

Now I guess everyone knows what they're doing because, again, this was negotiated out. It also went on consent upstairs, and I guess that's good. But I see something a little different.

I see we're changing the rules and we're saying that you don't need a license under all the provisions of Section 368 of our Statutes, you don't need a license in order to operate, only if you started operating back in 2000, before July 1, 2003.

So it was all right back then. You could go ahead and operate without worrying about a certificate of need. And according to this, I guess you really

didn't even have to worry about the Department of Health coming in and inspecting you.

If there were other areas in our law for which individuals operated without licensure, you know what would happen?

They would come in, they would come in, now I know who the they are, so I can mention this, they would come in and shut a business down if you operate with a license.

They'd come in and shut a business down, but what we're saying here is it's okay, you have another two years after we pass this in order to get a license.

There are instances right within the Department of Public Health, in many of the boards and divisions of the Department of Health, where they deny licenses to podiatrists and other individuals in the medical profession. They deny those licenses to them.

Or, on the other hand, they tell them if they don't get their license back on time and pay the applicable fee for that license that they revoke their license.

And they do this in some ways with hearings, according to Section 368 of our Statute. You can do

that with a hearing, and after the hearing is over, you can appeal it.

Now why is it that individual providers of medical services in our State have to keep their licenses and these facilities can go two years without a license.

I guess we're doing something here for somebody. And I know how this place works in all my years. I have no problem with doing something for somebody.

And I do think that there will be times in this Session when similar legislation comes before this body where we can do something for a person or a business or an entity or someone else who feels in some way aggrieved by this process.

Because this process allows those individuals who have the collective will to come to the Legislature, and the Legislature will help them, even says here that you may operate, and I have to do this, Mr. Speaker, for the purposes of legislative intent, I have to say one thing.

And that is, according to the explanation, and I must read this, that passage of this Bill will ensure that any outpatient surgical facility that prior to

July 1, 2003, provided evidence of operation or, B, obtain a waiver or certificate of need, CON, from the Office of Healthcare Access, can continue to operate without being out of compliance with Section 19a or 493 of our Statutes, without compliance, compliance.

That's interesting. All it says here is that you can just keep doing what you've been doing. You don't have to worry for two years. You'll get a, you can apply for a license by 2007, but in the meantime just keep doing what you're doing.

Gee, that's all right. But we don't do this to any other business entity in our State where we're going to let them delay their licensure. We don't do it, but I'm glad we're doing it today.

Believe me, Mr. Speaker and Members, I'm glad we're doing this today, because by doing this today, we're all going to vote yes, we're all going to do the same thing we did upstairs in the Senate, no different.

We're all going to vote yes to change the rules. We're all going to vote yes to change the law to allow surgical facilities to operate without a license. We're going to do that today.

And as I mentioned earlier, we will have an opportunity to change rules again. And I wonder what will be the response when we have that opportunity to change the rules again, what will be the response then.

So, Mr. Speaker and Members of the House and to Representative Sayers and her Committee, I want to thank you for your time and your diligence and for listening to my feeling about how we're trying in some way to change the rules again.

I have no problems with changing the rules, but I hope that we're consistent throughout this Session, every time we get ready to change a rule, that someone will stand up and just point out for the purposes of legislative intent so those will know what we're doing and why we're doing it, that everyone will have an equal opportunity to look at how we do what we do. Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, Sir. The gentlewoman from New Fairfield, Representative Carson.

REP. CARSON: (108th)

Thank you, Mr. Speaker. If I may question through you to the proponent of the Bill.

DEPUTY SPEAKER GODFREY:

Please frame your question, Madam.

REP. CARSON: (108th)

Thank you. Representative Sayers, I would just like to refresh my memory from last year when we voted on this Bill.

My understanding is that these facilities that we're talking about have never been licensed. The physicians who are performing their duties in these facilities have been licensed all along.

The facilities themselves have not been. This Bill is a great step forward in ensuring that these facilities will indeed finally be licensed.

It is taking us until the year 2007 because of our resources to be able to actually get that work completed, if I understand that correctly. Can I just, can I just ask, finalize that question?

DEPUTY SPEAKER GODFREY:

Representative Sayers.

REP. SAYERS: (60th)

Thank you, Mr. Speaker. Yes, that is correct, and also the delay will allow these facilities to make sure that they are in compliance with the licensing regulations.

DEPUTY SPEAKER GODFREY:

Representative Carson.

REP. CARSON: (108th)

Thank you. And, Mr. Speaker, again through you another question to Representative Sayers. I just wanted to verify, there were some folks who were carved out, so to speak, I think about six facilities who actually were grandfathered in.

They had invested significant money. They had not maybe quite put a shovel in the ground to get their facility up and running, but they had invested significant funds in order to be able to be approved through this process and be covered under this Bill.

And if I understand correctly, the, I guess what we're calling a technical flaw from last year, there were some changes made that we were all unaware of that might have jeopardized some of those facilities, and I believe that's why we're back here today. Is that correct, Madam?

DEPUTY SPEAKER GODFREY:

Representative Sayers.

REP. SAYERS: (60th)

Yes, Mr. Speaker, that is correct.

DEPUTY SPEAKER GODFREY:

Representative Carson.

REP. CARSON: (108th)

Thank you, Mr. Speaker. I rise in strong support of this Bill. I sat in a room last year with all parties involved for many months working on the details of this, and I think it's a good piece of legislation that should have been finalized last Session. Thank you.

DEPUTY SPEAKER GODFREY:

Thank you, Madam. Will you remark further on the Bill? Will you remark further on the Bill? Representative Belden.

REP. BELDEN: (113th)

Thank you, Mr. Speaker. Mr. Speaker, through you to the proponent, if I might. There was previous discussion that someone could apply for a license up until March 31, 2007.

As I read the Bill, the person or the entity has to have obtained a license by that point in time. Is that correct, through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Sayers.

REP. SAYERS: (60th)

Thank you, Mr. Speaker. Yes, that is correct.

DEPUTY SPEAKER GODFREY:

Representative Belden.

REP. BELDEN: (113th)

Thank you, Mr. Speaker. I just wanted to emphasize that point. It means that those entities out there that currently are not licensed better get on the ball and get with it or they may in fact end up without being able to operate on that date. Thank you.

DEPUTY SPEAKER GODFREY:

Thank you, Sir. Will you remark further on the Bill? Will you remark further? If not, staff and guests please come to the Well of the House. Members please take your seats, and the machine will be open.

CLERK:

The House of Representatives is voting by Roll Call. Members to the Chamber. The House is voting by Roll Call. Members to the Chamber, please.

DEPUTY SPEAKER GODFREY:

Have all the Members voted? Please check the machine to see if your vote is properly recorded.

If all the Members have voted, the machine will be locked, and the Clerk will take the tally. The Clerk will announce the tally.

CLERK:

Senate Bill Number 933, in concurrence with the Senate.

Total Number Voting	144
Necessary for Passage	73
Those voting Yea	144
Those voting Nay	0
Those absent and not voting	7

DEPUTY SPEAKER GODFREY:

The Bill passes in concurrence with the Senate. Will the Clerk please call Calendar Number 57.

CLERK:

On Page 3, Calendar Number 57, House Bill Number 6590, AN ACT CONCERNING THE TRANSFER OF TITLE IN THE

JOINT
STANDING
COMMITTEE
HEARINGS

PUBLIC
HEALTH
PART2
327-696

2005

CONNECTICUT HOSPITAL ASSOCIATION

TESTIMONY OF
CONNECTICUT HOSPITAL ASSOCIATION
SUBMITTED TO THE
PUBLIC HEALTH COMMITTEE
Monday, January 31, 2005

SB 933, An Act Clarifying Licensing Requirements For Outpatient Surgical Facilities

The Connecticut Hospital Association submits this testimony in support of **SB 933, An Act Clarifying Licensing Requirements For Outpatient Surgical Facilities.** SB 933 clarifies the applicability of certain requirements in Public Act 04-249 to outpatient surgical facilities that were in operation on or before July 1, 2003 or that had obtained, on or before July 1, 2003, a determination from the Office of Health Care Access that a certificate of need was not required. As CHA understands the clarification to be necessary to make section 19a-493b consistent with the legislative purpose and intent of Public Act 04-249, CHA supports SB 933.

Thank you for your consideration of our position.

For additional information, contact CHA Government Relations at (203) 294-7310.

PJM:pas

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Connecticut State Medical Society
Testimony in Support of
Senate Bill 933 An Act Clarifying Licensing Requirements for Out Patient Surgical Facilities

The Connecticut State Medical Society (CSMS) strongly supports Senate Bill 933 An Act Clarifying Licensing Requirements For Out Patient Surgical Facilities. The bill before you today makes a simple correction to legislation passed by the General Assembly during the 2004 session in order to be consistent with the intentions of the bill.

Discussions prior to the enactment of Public Act 04-249 An Act Concerning Out Patient Surgical Facilities and the legislative intent stated during the House debate clearly demonstrate that the intention of the legislation was to grandfather from the CON process any facility that was in operation prior to its enactment as well as those facilities that had demonstrated to OHCA that they were in development prior to that date. This minor correction restores the prospective intention of the Public Act.

Senate Bill 933 must be passed by the legislature during this session to implement the intentions of last year's General Assembly. CSMS respectfully asks for your support.

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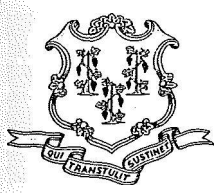

STATE OF CONNECTICUT

OFFICE OF HEALTH CARE ACCESS

M. JODI RELL
GOVERNOR

CRISTINE A. VOGEL
COMMISSIONER

Testimony of Commissioner Cristine Vogel, Commissioner

Office of Health Care Access

Public Health Committee
PUBLIC HEARING
Monday, January 31, 2005

Senate Bill 933, "An Act Clarifying Licensing Requirements for Outpatient Surgical Facilities"

Good morning, Chairman Murphy and Chairman Sayers and all members of the Public Health Committee. I am Cristine Vogel the Commissioner of the Office of Health Care Access (OHCA). I write you today in support of **Senate Bill 933,** "An Act Clarifying Licensing Requirements for Outpatient Surgical Facilities."

Senate Bill 933, "An Act Clarifying Licensing Requirements for Outpatient Surgical Facilities", simply changes an "and" to an "or" in Section 1. Subsection (b), which will ensure that the original intent of Public Act 04-249, "An Act Concerning Regulation of Outpatient Surgical Facilities" can be applied by OHCA. Without this change, the intent of last year's Public Act 04-249 which grants OHCA expanded authority to regulate outpatient surgical facilities could be significantly altered and could jeopardize some facilities that were either grandfathered or waived from the Certificate of Need (CON) process.

Ultimately, the concern is that without this proposed change OHCA's commitment to grandfather certain outpatient surgical facilities that were either in operation or in significant development phases prior to July 1, 2003 would be removed and results in an unintended egregious impact both financially and functionally for those facilities in question. Thus, I encourage you to vote favorably today for **Senate Bill 933.**

I thank you for your time and consideration. If you have further questions or concerns please contact my office at (860) 418-7002.

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Statement of
Kris Mineau, President
Connecticut Association of Ambulatory Surgery Centers, Inc.
In support of
SB 933, An Act Clarifying Licensing Requirements for Outpatients Surgical Facilities.

January 31, 2005

Good morning, Senator Murphy, Representative Sayers and distinguished members of the Public Health Committee. I am Kris Mineau and I am here today as President of the Connecticut Association of Ambulatory Surgery Centers to speak in support of SB 933, An Act Clarifying Licensing Requirements for Outpatients Surgical Facilities.

The association was formed late last year and has a diverse membership from around Connecticut with freestanding and hospital affiliated facilities represented as well as other joint ventures. We are pleased to have an opportunity to participate in the process and bring a voice to this sector of the industry and discuss the cost-effective and quality of care benefits of providing care within the ambulatory setting. We are pleased to offer a safe, efficient and convenient environment for patients from all payor mixes, including Medicaid, Medicare and traditional insurers.

The bill before you today corrects a mistake in drafting from last session which created confusion for some facilities as to their compliance with state statute. We greatly appreciate the efforts of this committee to quickly resolve the issue and look forward to working with you on other issues as they arise.

Thank you for your consideration.