

Senate 1173

An Act relative to ensuring regulatory parity among ambulatory surgicenters

Notwithstanding any general or special law or regulation to the contrary, the determination of need review required to establish a single specialty ambulatory surgery center shall not be delegated to the commissioner of the department of public health but shall be subject to the same review as multi-specialty ambulatory surgery centers.

Sponsor – Senator James E. Timilty

Co-sponsors – Senator Katherine Clark and Senator Daniel Wolf

Justification for Senate 1173

The proposed legislation would help to ensure regulatory parity among all ASCs. Currently, pursuant to long standing DPH policy that is in the process of being updated consistent with the current health care environment, single specialty ASC projects qualify for delegated DoN review. However, there is no significant public policy reason for this regulatory differential at this time. The development of any type of ASC, particularly within the service area of a community hospital, theoretically raises the same type of DoN issues, in terms of the rational allocation of health care resources. Moreover, a single specialty ASC could convert into a multi-specialty ASC, and obtaining the initial DoN through the delegated process would aid in such efforts. One can envision applicants commencing their projects as single specialty ASCs just to avoid the first DoN hurdle. DPH is in the process of updating its DoN guidelines with respect to ASCs. The proposed legislation would help clear away DPH regulations that currently restrict its ability to issue the new ASC guidelines unfettered by old considerations.