

Surgeons and Gastroenterologists Show Renewed Interest in Establishing Their Own Ambulatory Surgery Centers

FEATURED ATTORNEY



Ayman H. Soliman

Partner

Ever since 2008, a growing number of surgeons and gastroenterologists have been acquiring, or building, their own ambulatory surgery centers. This phenomenon follows passage of a New York State law which required physicians to obtain accreditation from one of 3 agencies recognized by the New York State Department of Health if they wanted to continue to perform medical procedures in their offices using moderate or deep sedation.

The accreditation process for office-based surgery (“OBS”) offices is costly and time consuming. It does not guarantee that those physicians who obtain accreditation will recoup any of their accreditation-related expenses (since Medicare and many private insurance companies will not pay a facility fee to an OBS entity unless it is licensed under Article 28 of New York’s Public Health Law).

While payment of a facility fee had been an anticipated financial incentive for many of the surgeons, gastroenterologists, and other physicians who have obtained OBS accreditation for their offices under the 2008 law, most managed care companies have been unwilling to reimburse physicians for such a facility fee. Even when they do, the facility fee paid is still far lower than the facility fee that is generally paid for the same procedures in hospitals and ambulatory surgery centers that are licensed under Article 28 under New York’s Public Health Law.

For this reason, more and more physicians have been coming together in recent years to seek Certificates of Need from the [New York State Department of Health](#) to operate their own ambulatory surgery centers in order to qualify to receive a facility fee for procedures performed in their centers. While Federal “anti-kickback” laws and regulations put certain restrictions on physicians who wish to perform procedures in their own ambulatory surgery centers, competent healthcare attorneys are able to navigate these restrictions to help physicians legally establish such licensed facilities and to thereby benefit from the enhanced governmental and private insurance reimbursements that flow from such licensure.

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If you have questions about acquiring an ASC, or seeking Article 28 licensure for your OBS facility, please contact [Ayman H. Soliman](#), Esq. at 516-328-2300 or your attorney contact at our firm.