

One Year Deadline for One Room Surgical Practices in New Jersey

05/30/18

On January 15, 2018, Governor Christie signed S278(3R) into law. A previous version was pocket vetoed by the Governor in 2012. The law requires registered “surgical practices” or “one room” centers to be licensed by the New Jersey Department of Health (“DOH”). These centers were previously exempt from licensure and merely had to be registered with the DOH and remained under the jurisdiction of the New Jersey Board of Medical Examiners. Prior to the new law, ownership in these exempt one room centers was limited to physicians. Below is a summary of the “one room law.” NJSA 26:2H-12 et seq.

I. Licensure of Surgical Practices within One Year

The new law requires all registered surgical practices in New Jersey to apply for licensure as an ambulatory care facility with the DOH within one year of the passage of the new law.

II. Exemption from License and Ambulatory Assessment Fees

Surgical practices are exempt from the initial licensure fee and ambulatory assessment fees that apply to other licensed ambulatory care facilities. This exemption, however, does not apply to facilities that increase the number of operating rooms to more than one.

III. Exemption from Physical Plant and Functional Requirements

The law creates certain exemptions from the physical plant and functional requirements to which other licensed ambulatory care facilities are subject. The exemption only applies to certain classes of facilities:

a) CMS Certified

- i. A surgical practice certified by CMS is not required to meet the physical plant and functional requirements specified in N.J.A.C. 8:43A-19.1 et seq.

b) AAASF or CMS Recognized Currently Operating

- i. A surgical practice that is in operation on the date of enactment of the bill that is accredited by the American Association of Ambulatory Surgery Facilities or any accrediting body recognized by CMS is not required to meet the physical plant and functional requirements specified in N.J.A.C. 8:43A-19.1 et seq.

c) Not Currently Operating and Not CMS Certified

- i. Must meet physical plant and functional requirements specified in N.J.A.C. 8:43A-19.1 et seq.
- ii. May apply for a waiver which will be granted by the Commissioner if it will not endanger the life, safety, or health of the patients or the public

IV. Scope of Services

Previous language granted a licensure exception to facilities that, among other things, did not expand the "scope of services" of the facility. The modified language deletes the scope of services language and replaces it with language limiting the expansion of the number of operating rooms, subject to certain criteria set forth in the law.

V. Combinations

The law permits owners of surgical practices and ambulatory care facilities to combine so long as certain criteria are met, including that the combined facility cannot have more operating rooms than the previous facilities had in total.

VI. Opportunities

The law offers opportunities for existing one room centers. It also offers opportunities to existing licensed facilities wishing to combine with an existing one room center.

VII. Licensure Process

It is important for registered one room centers to apply for licensure within the one year deadline. The DOH held training sessions for existing registered centers in early May to assist with the licensure process as well as the inspection process. Our health law team attended these sessions and will continue to monitor the process.

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