



Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

Richard F. Daines, M.D.
Commissioner

Wendy E. Saunders
Chief of Staff

December 3, 2007

Dear Licensee:

This is to notify you of recent legislation that may affect your practice. It requires the accreditation of certain practices in which physicians, physician assistants or specialist assistants (licensees) perform office-based surgery, and requires the reporting of certain adverse events. Offices that are impacted are those in which surgical or other invasive procedures are performed under moderate sedation, deep sedation or under general anesthesia. Offices that are not impacted by this legislation either perform only minor procedures or do so under “minimal” sedation – (all definitions can be found within the law at <http://public.leginfo.state.ny.us/menuf.cgi> or on the web site of the American Society of Anesthesiologists at www.asahq.org. The law can also be found on the Department of Health’s (DOH) website at www.nyhealth.gov/professionals/office-based_surgery.)

Law

Chapter 365 of the Laws of 2007 amends the Public Health Law (PHL) by adding Section 230-d regarding Office-Based Surgery. Office-Based Surgery (OBS), as it is used in this statute, means “any surgical or other invasive procedure requiring general anesthesia, moderate or deep sedation and any liposuction procedure [involving the removal of greater than 500cc of fat], where such surgical or other invasive procedure or liposuction is performed by a licensee in a location other than a hospital, as such term is defined by article twenty-eight of this chapter, excluding minor procedures and procedures requiring minimal sedation.”

Frequently Asked Questions

This law is specific to physicians and does not cover procedures performed by dentists and podiatrists who are not regulated by DOH. The State Education Department (SED), which does regulate dentists and podiatrists, has issued guidelines for office-based surgery and conscious sedation that apply to them. These can be found at <http://www.op.nysed.gov/dentanesthes.htm> and <http://www.op.nysed.gov/podiatryguidesedation.htm>.

Attached to this letter are Frequently Asked Questions, which address the definitions, the reporting requirements, examples of some office procedures that require office accreditation and the effective dates. Also attached is the OBS adverse event report.

Accrediting Agencies

The Commissioner is currently reviewing applications for nationally recognized accrediting agencies to accredit OBS practice. It is important to note that, as of the date of this letter, no accrediting agency(ies) have been designated yet by the Commissioner. For the purpose of complying with this statute, an OBS practice should not begin the accreditation process with any agency until the Commissioner's designation(s) have been made. Once the Commissioner's designation(s) have been made, OBS practices may choose any designated agency. Further information may be found on the DOH website.

Reimbursement and Licensure in other Settings

It is important to recognize that nothing in this legislation affects how physicians are reimbursed for OBS procedures nor does it affect the definition of, or criteria for, a diagnostic and treatment center or any Article 28 facility under the Public Health Law. Accreditation by one of the NYS designated accrediting bodies does NOT imply or support in any way Article 28 status.

If you have any questions, you may write to obs@health.state.ny.us.

Sincerely,



James W. Clyne, Jr.
Deputy Commissioner
Office of Health Systems Management

Enclosures :
Frequently Asked Questions
Adverse Event Report Form
Instructions