



DATE: March 18, 2021

TO: Eileen Fleck
Chief, Acute Care Policy and Planning
MD Health Care Commission
eileen.fleck@maryland.gov

FROM: Andrea Hyatt, President

RE: State Health Plan February 2021 Draft Update

On behalf of the Maryland Ambulatory Surgery Association (MASA), which represents the interests of 76 ambulatory surgery centers (“ASC”) in the State, thank you for the opportunity to comment on the State Health Plan for Facilities and Services: General Surgical Services (COMAR 10.24.11), February 2021 Draft Update (“Draft”). Upon review, we identified the following areas of concern.

1. On Page 4, the Draft refers to legislation that was effective October 1, 2020, and states that it changed the law to “allow use of general anesthesia, for certain types of procedures and in limited circumstances, in non-sterile procedure rooms.” Upon review of Chapter 377 of 2020, the legislation allows general anesthesia in a non-sterile procedure room only when “warranted by the clinical situation” AND when “the room is equipped to safely conduct the required level of anesthesia.” We think the language in the Draft should use this same language to avoid any confusion. Rather than stating that non-sterile rooms can be used for “certain types of procedures” it should state general anesthesia can be used in these rooms “in certain clinical situations”.
2. On Page 7, under Part D, Policy 1: The Draft states that “Surgical services should be provided in settings where patient safety will be assured.” We believe this should more appropriately be stated as “...where patient safety *standards can be met.*” ASCs are held to standards rather than outcomes, and the Draft should reflect this fact.
3. On Page 8, Under .04(A), an applicant for a new ASC must prepare a notice including certain items. We request that item (12) be modified as follows to identify more broadly the specialties that will make use of the ASC rather than the specific procedures, as a comprehensive list of these may not be known at the time of application:

(12) The specific [procedures] SPECIALTIES that will be performed in any sterile operating room AND NON-STERILE OPERATING ROOM, and the types of anesthesia that will be used in BOTH. [the sterile operating room, and the specific procedures that will be performed in any non-sterile procedure room and the types of anesthesia that will be used in each non-sterile procedure room.]

4. On Page 12, Under .05 (A)(1), certain requirements are set forth regarding charges for surgical services. The initial requirement is that “information regarding charges for surgical services shall be available to the public.” The patient’s share of any charge is a function of many factors specific to the patient, such as whether they carry public or private insurance, if they have high-deductible plans, and what their co-pays are, for example. A general list of charges is more misleading than informative if these patient-specific factors are not considered.

A requirement that the ASC work with the patient to determine what the charges will be for that patient is reasonable, but we are concerned that the current language is more general and could lead to confusion over what is required.

5. Also, on Page 12, under .05(A)(3), there is a requirement that notices be posted in the registration and business offices of the ASC on the charity care policy of that ASC. These policies are not easily explained in a short notice posted in a registration area. We think a more reasonable requirement is that a notice be posted stating that this information is available upon request.

Thank you for your consideration of these comments on the Draft. Should you have any questions, please contact me at 667-214-2112.

Respectfully submitted,

Andrea M. Hyatt, CASA

President, Maryland Ambulatory Surgery Association