



Draft State Health Plan Chapter for General Surgical Services (COMAR 10.24.11) for Consideration as Proposed Permanent Regulations

Maryland Health Care Commission
April 20, 2016

Informal Comments Received



Organizations

- Anne Arundel Medical Center (AAMC)
- Johns Hopkins Medicine (JHM)
- Maryland Ambulatory Surgical Association (MASA)
- Maryland Hospital Association (MHA)
- Maryland Society of Anesthesiologists (MSA)
- MedStar Health (MedStar)
- University of Maryland Medical System (UMMS)

Individuals

- Mark Artusio, M.D.
- Donald Bartnick
- Steven J. Brand, M.D.
- Tina Dimarino
- Hae Lin Retz, B.S.N.
- Bert Williams, M.D.
- Ravi Yalamanchili, M.D.

Exemption from Certificate of Need Review for Establishment of an Ambulatory Surgical Facility

Comments on .06A Applicability

- AAMC, MHA, and MedStar Health proposed that a hospital be allowed to relocate two operating rooms (ORs) from a hospital to an unregulated ambulatory surgical facility (ASF) through a CON exemption process.
- MedStar Health expressed concern that physician outpatient surgery centers (POSCs) could double their OR capacity resulting in greater inefficiencies because of spreading surgical cases over a larger number of ORs.

Recommendation

Staff recommends no changes in response to these comments.

Exemption from Certificate of Need Review for Establishment of an Ambulatory Surgical Facility

Other Comments on .06A Applicability

- UMMS commented that a hospital converting to an FMF that seeks an exemption to establish an ASF should be allowed to file at any time before a hospital converting to an FMF actually closes.

Recommendation

Staff recommends modifying the language in .06A(3) to allow some flexibility as requested by UMMS.

.06A Applicability



Revised standard (new text underlined):

(3) A general hospital that seeks to convert to a freestanding medical facility may be issued an exemption that permits it to establish an ambulatory surgical facility with two operating rooms on the same campus as the freestanding medical facility or immediately adjacent to the freestanding medical facility, if it seeks such an exemption ~~in conjunction with an exemption to convert to a freestanding medical facility.:~~

(a) In conjunction with an exemption to convert to a freestanding medical; or

(b) After the issuance of an exemption to convert a general hospital to a freestanding medical facility and prior to the closure of the general hospital.

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Comments on .06C(1) Need

- JHM proposed eliminating this standard.
- MASA, MHA, AAMC, and Mr. Donald Bartnick proposed greater flexibility in the way that optimal utilization is evaluated.
- MedStar Health did not comment directly on this standard, but it expressed concerns about creating inefficiencies by giving POSCs the opportunity to add a second OR through an exemption process.

Recommendation

Staff recommends revisions to .07A(1)(b) to allow for some flexibility in the capacity assumptions used for dedicated outpatient general purpose operating rooms.

.07A(1)(b) Dedicated Outpatient General Purpose OR

Current Standard:

(i) Is expected to be used for a minimum 255 days per year, 8 hours per day;

(ii) Has full capacity use of 2,040 hours per year, which includes the time during which surgical procedures are being performed and room turnaround time between surgical cases; and

(iii) Has optimal capacity of 80 percent of full capacity, which is 1,632 hours per year, which includes the time during which surgical procedures are being performed and room turnaround time between surgical cases;

.07A(1)(b) Dedicated Outpatient General Purpose OR

Revised Standard (underlined text is new):

(iii) Has optimal capacity of 80 percent of full capacity, which is 1,632 hours per year, which includes the time during which surgical procedures are being performed and room turnaround time between surgical cases; unless an applicant demonstrates that a different optimal capacity standard is applicable based on:

1. Economies of scale available for two or more dedicated general purpose outpatient operating rooms;

2. An analysis of the cost-per case of operating at a range of utilization levels that includes the applicant's proposed optimal capacity standard, the standard described in .07A(1)(b)(iii), and utilization levels between these two standards, and that explains the basis of each assumption used in the analysis; and

3. The ability of the ASF to maintain patient safety and quality of care at the proposed optimal capacity standard.

Exemption from Certificate of Need Review for Establishment of an Ambulatory Surgical Facility

Comments on .06C(3) Location

- UMMS recommended that greater flexibility be allowed for the location of an ASF established in conjunction with a hospital conversion to a freestanding medical facility.
- MHA expressed support for the standard.

Recommendation

Staff recommends allowing slightly greater flexibility in the location of an ASF established in conjunction with a hospital conversion to a freestanding medical facility.

.06C(3) Location



Revised standard (new text is underlined):

An applicant proposing to establish an ASF by adding an OR to the applicant's existing POSC may only locate the proposed ASF:

- (i) At the current location or an immediately adjacent location;
or
 - (ii) If an applicant demonstrates that it is not feasible for the proposed ASF to be established at its current ~~or immediate~~ location, ~~then~~ or at an immediately adjacent location, it may propose establishment of the proposed ASF at a nearby location, as defined in Regulation .08 of this Chapter.
- Nearby, as defined in Section .08, means a site that can be reached from the reference site by crossing no more than one public thoroughfare.

.06C(5) and .05B(7)(b) Construction Costs



- Commission staff recommends modifying the standard for evaluating construction costs of an ASF for CON exemption requests and CON reviews.
- The Marshall Valuation Service (MVS) standards would apply only to new construction. MVS standards would not be used for evaluating the reasonableness of the costs of renovation or fitting out space.

Certificate of Need Standards: Comments and Recommendations



Comments on .05A(3) Charity Care Policy

- MHA and UMMS recommended that hospitals only be subject to the requirements of HSCRC.
- MedStar commented that any duplicative regulatory requirements for charity care should be deleted.

Recommendation

Staff recommends no changes in response to these comments.

Certificate of Need Standards: Other Staff Recommendations



Quality of Care - COMAR 10.24.11.05A(4)

Staff recommends modifying this standard to allow for consideration of performance standards publically reported other than those used by the Centers for Medicare and Medicaid.

The following new language has been proposed:

(iii) A provider of quality services, as demonstrated by its performance on publicly reported performance measures, including quality measures adopted by the Centers for Medicare and Medicaid Services.

Request for Approval



Staff requests that the Commission adopt draft COMAR 10.24.11, the General Surgical Services Chapter of the State Health Plan, as proposed permanent regulations and repeal current COMAR 10.24.11, contingent on proposed COMAR 10.24.11 becoming effective.