



## MARYLAND HEALTH CARE COMMISSION

4160 PATTERSON AVENUE – BALTIMORE, MARYLAND 21215  
TELEPHONE: 410-764-3460 FAX: 410-358-1236

### MEMORANDUM

To: Commissioners

From: Eileen Fleck, Chief, Acute Care Policy and Planning

Date: September 23, 2021

Re: Staff Recommendation for Final Permanent Regulations, COMAR 10.24.11, State Health Plan for Facilities and Services: General Surgical Services

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Maryland Health Care Commission (MHCC) staff is requesting that the Commission adopt final permanent regulations in COMAR 10.24.11, State Health Plan for Facilities and Services: General Surgical Services (“Surgical Services Chapter”). In response to the notice posted in the *Maryland Register* on July 16, 2021, requesting public comments on the proposed permanent regulations adopted by the Commission on May 20, 2021, staff received comments from the Maryland Society of Anesthesiologists and the Johns Hopkins Health System. These comments are attached and have been posted on MHCC’s web site.<sup>1</sup> The Maryland Society of Anesthesiologists expressed support for the definition of procedure room included in the Surgical Services Chapter and did not propose any changes. Staff’s analysis and recommendations are described below, following the standard addressed in comments submitted by the Johns Hopkins Health System.

#### COMAR 10.24.11.05A(1)

##### ***(1) Information Regarding Charges and Network Participation.***

*Information regarding charges for surgical services shall be available to the public.*

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<sup>1</sup> [https://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs\\_shp/hcfs\\_shp.aspx](https://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_shp/hcfs_shp.aspx)

- (a) *Each ambulatory surgery center, ambulatory surgical facility, and hospital shall provide to the public, upon inquiry or as required by applicable regulations or law, information concerning charges for the full range of surgical services provided.*
- (b) *Each ambulatory surgery center, ambulatory surgical facility, and general hospital shall provide to the public, upon inquiry or as required by applicable regulations the names of the health carrier networks in which it currently participates.*
- (c) *Each ambulatory surgery center, ambulatory surgical facility, and general hospital shall provide to the public, upon inquiry the names of the health carrier networks in which each surgeon and other health care practitioner that provides services at the facility currently participates.*
- (d) *The Commission shall consider complaints to the Consumer Protection Division in the Office of the Attorney General of Maryland or to the Maryland Insurance Administration when evaluating an applicant's compliance with this standard in addition to evaluating other sources of information.*
- (e) *Providing a patient with an estimate of out-of-pocket charges prior to arrival for surgery shall be a condition of any CON issued by the Commission.*

### **Comment**

Johns Hopkins Health System (JHHS) stated that COMAR 10.24.11.05A(1)(b) is a reasonable standard, but COMAR 10.24.05A(1)(c) is unreasonable. JHHS explained that as ambulatory surgery centers (ASCs) continue to increase capacity, the number of providers participating within ASCs increases, and tracking network participation can become excessively burdensome. JHHS requested that COMAR 10.24.05A(1)(c) be removed.

### **Staff Response**

While staff understands that tracking network participation could potentially become burdensome, staff has concluded that ASCs likely can adapt their information systems and processes to mitigate this burden. Staff has concluded that the benefits for consumers outweigh the added burden for ASCs.