

Client Alert **Health Care Law**

Registered Surgical Practice Bill Signed into Law

On January 12, 2018, Governor Christie signed into law an amendment to the law governing single operating room registered surgical practices. Under the new law, a registered surgical practice will be required to apply, within a year after enactment of this legislation, to become licensed by the New Jersey Department of Health as an ambulatory surgical center. However, the new law also provides registered surgical practices with certain waivers and provides some flexibility to permit the merger of registered surgical practices with existing ambulatory surgery centers or other registered surgical practices.

Some of the key provisions of the new law include:

- A surgical practice in operation on the date of enactment is required to apply to the department for licensure as an ambulatory care facility licensed to provide surgical and related services within one year of enactment.
- Any surgical practice required to apply for licensure by the department as an ambulatory care facility will be exempt from the initial and renewal license fees otherwise required.
- The following surgical practices will not be required to meet all of the physical plant and functional requirements currently applicable to licensed ambulatory surgery centers:
 - A surgical practice that is certified by CMS.
 - A surgical practice not certified by CMS or an authority recognized by CMS,

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but which has obtained accreditation from AAAASF or any accrediting body recognized by CMS and is in operation on the date of enactment of the new law.

- A surgical practice not in operation on the date of enactment, if it is certified by CMS as an ambulatory surgery center provider.
- Surgical practices that do not fall within one of the three categories above will have the opportunity to apply for waiver.
- A surgical practice required to be licensed by the new law is exempt from the ambulatory care facility assessment unless it expands to include any additional operating rooms.
- An ambulatory care facility licensed to provide surgical and related services shall be required to obtain ambulatory care accreditation from an accrediting body recognized by CMS.
- As of enactment, the department will not issue a new license to an ambulatory care facility to provide surgical or related services, subject to certain exceptions.
- The new law specifically allows for the combination of a registered surgical practice with another registered surgical practice or ambulatory surgery center to form a larger, licensed ambulatory surgery center as long as there is no increase in the total number of operating rooms.

It is also noteworthy that, once a registered surgical practice becomes a licensed ambulatory surgery center, it will achieve greater flexibility in the structuring of its business operations, including the ability to allow non-physician ownership, and the ability to permit physicians who are not affiliated with an owner to perform procedures at the facility.

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