



NEW JERSEY –

Time Is Running Out

DEVELOP YOUR AMBULATORY SURGERY CENTER! LIMITED TIME REMAINS!

Bill to Modify New Jersey's Codey Law Sees Possible Final Amendments

BY MARK MANIGAN

Behind the leadership of New Jersey State Senate President Richard Codey, amendments to the 1991 Codey Law were voted out of the State Senate on December 15, 2008. In order for the bill to become law two steps remain. First, the bill must be voted out of State Assembly. Second, Governor Corzine must sign it into law. In terms of timing, we are working hard to have the Assembly vote on the bill in February. The Governor would then have 45 days to sign the bill into law. If you have not already developed your ambulatory surgery center, you should act now. If the law passes, there is a 270 day window to finalize your center's plans, so time is of the essence. The deadline could be as early as this summer! The revised bill would prohibit the development of both licensed and unlicensed new ambulatory surgery facility licenses unless certain conditions apply.

The bill would modify the Codey Law in a number of significant ways by (1) creating an exception from New Jersey's ban on self-referrals for referrals to ambulatory surgery centers (ASCs); (2) deeming all pre-effective date referrals to ASCs compliant with the Codey

Law; and (3) permitting corporate ownership of licensed ASCs to continue.

The bill would also increase regulatory oversight of the entire industry by requiring within one year of the effective date (1) all unlicensed one-room ASCs to become "registered" with NJDOH and (2) all licensed ASCs to become accredited by an "accrediting body recognized by Medicare" (currently the Joint Commission, the Accreditation Association for Ambulatory Healthcare and the American Association for the Accreditation of Ambulatory Surgery Facilities, hereafter collectively referred to as an "Accrediting Body").

The conditions of "registration" include the requirement that unlicensed centers obtain (1) Medicare certification or (2) accreditation from an Accrediting Body. Further, only existing unlicensed ASCs, as well as those that (1) change ownership; (2) have construction plans filed before the six month anniversary of the effective date or (3) relocate within 20 miles or to a "Health Enterprise Zone" (provided there was no expansion in the ASC's scope of services), would qualify for "registration," and therefore, the ASC self-referral exemption contained in the bill. Finally, "registered" ASCs will not be subject to the ambulatory care facility assessment (currently 2.95 percent

on gross receipts and capped at \$200,000 per year).

The revised bill would prohibit NJDOH from issuing any new ambulatory surgery facility licenses unless one of the following scenarios apply: (1) a change of ownership; (2) the relocation of an ASC within 20 miles or to a "Health Enterprise Zone" (provided there was no expansion in the ASC's scope of services); (3) entities that have filed architectural plans within six months of the effective date; (4) entities that are owned in whole or in part by a New Jersey hospital; or (5) entities that are owned in whole by a medical school.



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