

## Office-Based Surgery Accreditation Lagging

Based upon discussions MSSNY's general counsel has had with representatives of the Accreditation Association for Ambulatory Health Care (AAAHC), the American Association for Accreditation of Ambulatory Surgery Facilities (AAAASF) and the Joint Commission, MSSNY has concerns that many medical practices that perform office-based surgery (OBS) procedures may not be acting quickly enough to attain accreditation to perform OBS. A law enacted in July 2007 provides that any medical practice that performs OBS procedures must be accredited by an agency approved by the New York State Department of Health (NYSDOH), on or before July 14, 2009. MSSNY's general counsel contacted the three accrediting agencies approved by NYSDOH and based upon information it is believed that not only has a small number of medical practices, to date, attained accreditation, but a relatively small number of medical practices have taken steps to apply for accreditation. Representatives of the accrediting agencies stated that they expected that by now, many more medical practices would have applied for accreditation.

According to the provisions of the new law (Education Law section 6530(48); Public Health Law section 230-d and 2998-e), any medical practice that performs OBS must have completed the accreditation process and received its Certificate of Accreditation on or prior to July 14, 2009. The New York State Department of Health has announced that there are no plans to extend the July 14, 2009 deadline. According to the law, any physician, physician assistant or specialist assistant who performs OBS at a non-accredited setting on or after July 14, 2009 will be committing professional misconduct. MSSNY is concerned that if most medical practices wait much longer to apply for accreditation, this could create a backlog and hamper the ability of the accreditation agencies to process all applications in time to comply with the July 14, 2009 requirement.

Q. What is Office-Based Surgery (OBS)?

A. Any surgical or other invasive procedure performed outside of a hospital, diagnostic and treatment center or other Article 28 facility in which moderate sedation or deep sedation or general anesthesia is utilized to provide comfort to the patient in order to perform the procedure. Only one surgical procedure is specifically included in the definition of OBS - liposuction of greater than 500cc's of fat.

Q. Who is Affected?

A. The law is specific only to physicians, physician assistants and specialist assistants.

Q. What procedures are excluded from the law?

A. Procedures involving minimal sedation or which would meet the definition of “minor procedures” may be performed in an office, which is not accredited.

**Minimal Sedation** means a drug-induced state during which (i) patients respond normally to verbal commands; (ii) cognitive function and coordination may be impaired; and (iii) ventilatory and cardiovascular functions are unaffected.

**Minor Procedures** means (i) procedures that can be performed safely with a minimum of discomfort where the likelihood of complications requiring hospitalization is minimal; (ii) procedures performed with local or topical anesthesia; or (iii) liposuction with the removal of less than 500cc's of fat under unsupplemented local anesthesia.

**Moderate Sedation/Analgesia** - a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained.

**Deep Sedation/Analgesia** - is a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.

**General Anesthesia** - is a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

Q. Which are the Accreditation Agencies designated by NYSDOH?

A. The designated accrediting agencies are:

- Accreditation Association for Ambulatory Health Care (AAAHC)  
5250 Old Orchard Road, Suite 200  
Skokie, IL 60077  
[www.aaahc.org](http://www.aaahc.org)

- American Association for Accreditation of Ambulatory Surgery Facilities (AAAASF)  
5101 Washington Street, Suite 2F  
Gurnee, IL 60031  
[www.aaaasf.org](http://www.aaaasf.org)
- The Joint Commission  
One Renaissance Boulevard  
Oakbrook Terrace, IL 60181  
[www.jointcommission.org/AccreditationPrograms/Office-BasedSurgery](http://www.jointcommission.org/AccreditationPrograms/Office-BasedSurgery)

Q. What are the Adverse Events Reporting Requirements?

A. Adverse Events, which are related to or may be related to an OBS procedure must be reported to the Patient Safety Center.

Adverse Event means:

- Patient death within thirty (30) days;
- Unplanned transfer to a hospital;
- Unscheduled hospital admission, within seventy-two (72) hours of the office-based surgery, for longer than twenty-four (24) hours; or
- Any other serious or life-threatening event. A "serious or life-threatening (resulting in temporary or permanent physical loss or mental impairment of bodily function; and/or substantially limits one or more of the major life activities of the individual.

The Adverse Events must be reported to the NYSDOH Patient Safety Center. Reporting forms are found in the NYSDOH website:

[http://www.nyhealth.gov/professionals/officebased\\_surgery/](http://www.nyhealth.gov/professionals/officebased_surgery/)

**NOTE:** The Adverse Event reporting requirement is already in effect, it went into effect on January 14, 2008.

For more information, see Office-Based Surgery Frequently Asked Questions:

[http://www.health.state.ny.us/professionals/office-based\\_surgery/obs\\_faq.htm](http://www.health.state.ny.us/professionals/office-based_surgery/obs_faq.htm)

Author: Donald R. Moy  
Medical Society State of New York  
865 Merrick Avenue  
Westbury, N.Y. 11590  
(P)516-488-6100 Ex. 320  
(F)516-488-8389  
dmoy@mssny.org

Questions should be directed to Donald R. Moy at [dmoy@mssny.org](mailto:dmoy@mssny.org)

OBS.Deadline (articles)  
10/08