



GEORGIA DEPARTMENT OF
COMMUNITY HEALTH

Rhonda M. Medows, MD, Commissioner

Sonny Perdue, Governor

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Atlanta, GA 30303-3159
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WRITER'S DIRECT DIAL
404-657-7198

June 13, 2008

Dick Farr, OPA-C, CASC
Director
Outpatient Orthopedic Surgery Center, LLC
1601 Fair Road, Suite 500
Statesboro, GA 30458

RE: Senate Bill 433 Clarification Regarding Ambulatory Surgery Services

Dear Mr. Farr:

The Georgia Department of Community Health, Division of Health Planning (the Department) is in receipt of your request, dated May 12, 2008, seeking clarification with respect to the ambulatory surgery services provisions contained in Senate Bill 433. Your request was submitted in response to the Department's invitation to submit questions regarding the impact and applicability of Senate Bill (SB) 433, a Certificate of Need (CON) reform bill passed during the 2008 session of the Georgia General Assembly.

Your letter states that Outpatient Orthopedic Surgery Center, LLC (OOSC) is a free-standing ambulatory surgical center (ASC) operating under a Letter of Nonreviewability (LNR) issued to East Georgia Orthopedic Center, P.C. on January 28, 2004. OOSC is considering the feasibility of converting from an exempt LNR facility to a "limited purpose" CON ASC. You ask whether, after July 1, 2008, a "limited purpose" ASC will be required to have a minimum of two operating rooms as now required by CON Rule § 111-2-2-.40(3)(a)(3). You also ask whether, if OOSC were granted a "limited purpose" ASC CON, the center would be allowed to bring in surgeons of other specialties to perform orthopedic procedures.

The CON reform changes contained within SB 433 are effective on July 1, 2008. The legislation created a new statutory definition of a single specialty ambulatory surgery center. O.C.G.A. § 31-6-2(33). {Note: all citations referenced are effective July 1, 2008}. As a result, the Department will, in proposed rules to implement the new statute, delete the reference and definition in the CON service specific considerations for ambulatory surgery services for a limited purpose ambulatory surgery service and replace it with a reference to and definition for a single specialty ambulatory surgery service. The service specific CON rule will continue to have the requirement that a single specialty ambulatory surgery center have a minimum of two operating rooms.

A party granted a CON for a single specialty ambulatory surgery center will be limited to the approved single specialty procedures performed by surgeons of the same surgical specialty. Therefore, surgeons of a different specialty than the single specialty approved in the CON will not be allowed to perform procedures in the single specialty ambulatory surgery center. There are two applicable distinctions in the new definition. One, an orthopedic center may have plastic hand surgeons with a certificate of added qualifications in Surgery of the Hand from the American Board of Plastic and Reconstructive Surgery perform orthopedic procedures in the orthopedic ambulatory surgery center. Two, a single specialty group practice operating an ASC which includes one or more physiatrists who perform services that are reasonably related to the surgical procedures performed in the center will be considered a single specialty ambulatory surgery center. The orthopedic ASC may utilize the services of physiatrists in a manner consistent with this language.

Please be advised this letter is not an official written confirmation of any activity to be undertaken on or after July 1, 2008 pursuant to SB 433. If you desire official written confirmation of specific activity to commence on or after July 1, 2008, please submit a specific and factual determination request to the Department on the existing published Determination Form, along with the proper filing fee. The Department will respond as appropriate.

I hope this letter is responsive to your request. If there are any further questions or concerns, please feel free to contact me at the Department.

Sincerely,

A handwritten signature in cursive script that reads "Clyde L. Reese, III". The signature is written in black ink and is positioned above the typed name.

Clyde L. Reese, III
General Counsel