

OUR PRACTICE

Ambulatory Surgery Centers

With advances in technology and medicine making surgery safer and recovery times shorter, physicians are increasingly performing ever more complex procedures outside traditional hospitals, in facilities know as ambulatory surgery centers (ASCs) – facilities that offer surgery and diagnostic procedures exclusively on an outpatient basis. Most centers serve a single specialty; ophthalmology, gastroenterology, orthopedics, urology and pain management are the most common, according to the Ambulatory Surgery Center Association.

Physicians now perform a wide array of procedures in ASCs, including colonoscopies; cataract surgery; biopsies; orthopedic repair of knees, ankles, shoulders and hips; ear, nose and throat procedures; hernia repair; hysterectomies; and plastic surgery. Even some heart procedures are migrating to ASCs.

From a legal standpoint, little about an ASC is uncomplicated. Through Medicare, the federal government imposes extraordinarily detailed guidelines for everything from room sizes to emergency preparedness and staffing. And each specialty raises unique legal, financial and operational questions.

In addition to worrying about health care-specific laws and regulations such as the federal Anti-Kickback Statute, ASCs must address complicated legal questions involving reimbursement by and contracts with managed care providers. All states have their own licensing requirements; many also have a Certificate of Need (CON) process that requires providers to demonstrate there is a need for their service in a given market area.

For hospital-affiliated ASCs, IRS rules on tax-exempt status often come into play. And finally, ASCs must confront the same legal challenges as every business – employee benefit issues, real estate issues, income and franchise tax issues, supply agreements and general governance issues (i.e., bylaws, operating agreements and partnership agreements).

Baker Donelson's health law attorneys have represented hospitals, physicians, corporations and other business entities in developing and acquiring both general and specialty ASCs, including women's health, general surgery, ophthalmology and urology centers. We have broad experience working with ASCs on numerous types of transactions, including structuring acquisitions, mergers, joint ventures and other types of transactions; developing contractual relationships; addressing state and federal regulatory issues, including CONs; handling state and federal securities issues; coordinating syndication to potential investors; obtaining financing; developing medical staff bylaws; and obtaining Medicare certification and private accreditation, among others.

When it comes to ASCs, there is no substitute for experience, whether in medicine or law. Baker Donelson's health law attorneys have the experience necessary to help clients navigate the complicated legal and regulatory environment surrounding ASCs.