

Rulemaking Hearing Rules

Board of Medical Examiners

Chapter 0880-02

General Rules and Regulations Governing the Practice of Medicine

Amendment

Rule 0880-02-.21 Office Based Surgery, is amended by adding the following language as new subparagraphs (9) (g), through (m), and is further amended by deleting part (11) (c) 1. in its entirety and substituting instead the following language, so that as amended, the new subparagraphs (9) (g) through (m) and the new part (11) (c) 1. shall read:

- (9) (g) Physicians are authorized to perform in their offices only the Level III surgeries that have all the following characteristics:
1. Have a planned duration of less than four (4) hours. This includes multiple surgeries, the combined planned duration of all planned procedures shall be less than four (4) hours; and
 2. Generally result in blood loss of less than ten percent (10%) of estimated blood volume in a patient with normal hemoglobin; and
 3. Will not require major or prolonged intracranial or intrathoracic procedures; and
 4. Will not require major or prolonged abdominal or major hip replacement procedures (this criteria does not apply to laparoscopic procedures); and
 5. Will not be generally emergent or life threatening in nature.
- (9) (h) Operating rooms where Level III surgeries occur and the recovery rooms for patients shall be used exclusively for surgery and recovery, respectively. Except for emergencies, the operating rooms and recovery rooms may be utilized only by physician employees of the office in which the rooms are located. Operating rooms and recovery rooms may not be shared with other offices or other physicians.
- (9) (i) Physicians performing Level III surgery in an office setting shall obtain written informed consent prior to the procedure from the patient or the patient's representative which shall be documented in the patient's health record. The consent shall explain to the patient the risks and benefits of the procedure, the alternative treatments to the surgical procedure; the type of anesthesia to be used and its risks; and the qualifications of the professional who is expected to administer the anesthesia during the procedure.
- (9) (j) A physician performing Level III surgery in an office setting must inform the patient, in writing, that the medical office is not a licensed facility and that the patient may elect to have the surgery performed at a licensed ASTC or hospital. The patient or the patient's representative must consent in writing to have the surgery performed in a medical office.
- (9) (k) In order for a physician's office to be qualified as a site for Level III surgery the following must occur:
1. All physicians who propose to perform such surgery in such office must submit to the board, on a form provided by the board, the following information for each physician:

- (i) Procedures expected to be performed; and
- (ii) The specialty board certification or board eligibility of the physicians performing procedures; and
- (iii) Verification of medical malpractice coverage; and
- (iv) Verification of hospital staff privileges.

2. The form required by this subparagraph shall be updated each time the physician's license is renewed.

(9) (l) Physician offices at which Level III surgeries are occurring as of the effective date of this amended rule shall submit the form required in subparagraph (k) within sixty (60) days of the effective date of this amended rule. If such an office makes a timely filing in accordance with this paragraph and otherwise complies with the provisions of this rule, then such office may continue to be a site for Level III surgeries. Physician offices at which Level III surgeries are occurring as of the effective date of this amended rule that fail to make the filing described in this paragraph shall cease to be qualified as a site for Level III surgeries as of the sixty-first (61st) day after the effective date of this amended rule.

(9) (m) The Board shall post on its web site a list, including the names, locations and principal owners of physician offices that have qualified as sites for Level III surgeries. Information on the list shall be updated quarterly or more frequently.

(11) (c)1. For all Level III surgery procedures performed pursuant to these rules, the maximum planned duration of all surgical procedures combined must not exceed four (4) hours.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, 63-6-204 and 63-6-214.

The rulemaking hearing rules set out herein were properly filed in the Department of State on the 12th day of June, 2007, and will become effective on the 26th day of August, 2007. (FS 06-09-07, DBID 2556)