



Office of Clinical Standards and Quality/Survey & Certification Group

Ref: S&C: 12-24-ASC

DATE: March 30, 2012

TO: State Survey Agency Directors

FROM: Director
Survey and Certification Group

SUBJECT: Revisions to Ambulatory Surgical Center (ASC) Patient Rights Regulation

Memorandum Summary

- ***Revised ASC patient rights regulation effective December 23, 2011*** Revisions include:
 - Removal of requirement to provide notice of patient rights and disclosure of physician financial interest or ownership in advance of the date of the procedure.
- ***Appendix L of the State Operations Manual (SOM) will be revised accordingly.***

On October 24, 2011, the Centers for Medicare & Medicaid Services (CMS) published a final rule revising the ASC Patient Rights regulation at 42 CFR 416.50, effective December 23, 2011 (76 FR 65886). Under the revised regulation an ASC:

- Is no longer required to provide notice of patient rights in advance of the date of the procedure. Provision of notice on the same day as, but prior to the start of, the surgical procedure is acceptable
- Must provide notice of patient rights to the patient, the patient's representative, or the patient's surrogate. The prior rule made no mention of a surrogate.
- Must disclose physician financial interest or ownership in the ASC in accordance with 42 CFR Part 420 and, where applicable, provide a list of physicians who have financial interest or ownership in the ASC facility. The disclosure must be in writing.

At a future date we will provide revisions to Appendix L of the SOM corresponding to the guidance in this memorandum.

Questions concerning this memorandum may be addressed to Angela Mason-Elbert at angela.mason-elbert@cms.hhs.gov.

Effective Date: Immediately. This policy should be communicated with all survey and certification staff and their managers within 30 days of this memorandum.

/s/

Thomas E. Hamilton

cc: Survey and Certification Regional Office Management