

State Laws and Regulations for Office Based Surgery

****Please Note:** 2007 updates are in blue text

State	Rule/Regulation	Entity	State Agency	Description
Alabama	Chapter 540-X-10, Rules of the Alabama Board of Medical Examiners	Office Based Surgery	Alabama Board of Medical Examiners	Regulations were approved by the Board on November 21, 2003 encouraging accreditation of facilities where deep sedation/general anesthesia is provided. The rules require registration and reporting, providing standards based on the level of anesthesia provided.
Arizona	AZ. Rev. Stat., Section 36-402 (3)	Physician offices	Dept. of Health Services, Division of Assurance and Licensure Services	Physician offices and clinics are exempt from licensing as required for health care institutions unless the following apply: patients are kept overnight as bed patients or treated under general anesthesia, except where treatment by general anesthesia is regulated under the dentistry statutes. Arizona Medical Board proposed rule for oversight of office based surgery in process with public hearing in October 2007.
California	Health safety code, chapter A.3, section 1248; Business and Professional Code, Sections 2216.1, 2216.2, 2240	Outpatient Facilities	Medical Board of California	Licensure, Medicare certification or accreditation is required for all outpatient facilities where anesthesia is administered with the exception of local anesthesia or nerve blocks. The Division of Licensing recognizes AAAASF, AAAHC, and JCAHO as state approved accrediting agencies. AB543 to governor for signature 9/16/07.
Colorado	Policy Statement 40-12	Office Based Surgery and	Board of Medical Examiners	The Board adopted a policy statement in November 2001 regarding the provision of

		Anesthesia		surgical and anesthesia services in office-based settings. Overnight patient stays are not recommended unless the facility is accredited as a Class B or Class C facility by the Colorado Dept. of Public Health or one of the three recognized accrediting agencies. (AAAASF, AAAHC or JCAHO)
Connecticut	Conn. General Statutes Section 19a-691; HB 5531 Signed into law on June 3, 2004	Outpatient Surgery (based on level of anesthesia provided)	Office of Health Care Access (OHCA) Dept. of Public Health	<p>All offices or unlicensed facility where moderate sedation, deep sedation or general anesthesia is administered must be accredited by AAAASF, AAAHC or JCAHO, or be Medicare certified within 18 months of administering such sedation or anesthesia.</p> <p>Effective July 1, 2004 non-hospital outpatient surgical facilities that use moderate sedation, deep sedation or general anesthesia are required to be licensed and obtain a Certificate of Need (CON). Medical offices are exempt if they do not administer deep sedation or general anesthesia and meet certain other conditions. Facilities that operated before July 1, 2003 and received an OHCA determination that a CON was not required may operate until March 30, 2007 without a license. OHCA is directed to make recommendations for an expedited CON process by January 1, 2005 and a task force created to study outpatient surgical-related issues.</p>
District of	Advisory to follow	Office Based	Board of	The Board issued an advisory in 2000 that it will

Columbia	ASA Guidelines	Surgery	Medicine	follow ASA guidelines in determining the acceptable standard of care in cases involving the administration of office-based anesthesia.
Florida	<p>Florida Administrative Code Rules 64B-9.009, 9.0091, 9.0092</p> <p>2007 FL 32225 64B8-9.009 Adopted rule</p>	<p>Office Based Surgery</p> <p>Office Based Surgery</p>	<p>Board of Medicine Dept. of Health</p>	<p>Florida law requires inspections by the Dept. of Health for physician office facilities or by a nationally recognized accrediting agency or another accrediting agency approved by the Board of Medicine. The rules currently recognize AAAASF, AAAHC, and JCAHO as approved accrediting agencies. The rules also require compliance with state standards for office based surgery.</p> <p>The Board imposed an emergency rule moratorium from Feb. 11 to May 10, 2004 on performing liposuction and abdominoplasty procedures within 14 days of each procedure on the same patient in an office based setting. In 2004, the district court of appeals invalidated the rule requiring an M.D. or D.O. anesthesiologist to supervise administration of anesthesia in Level III surgeries. The Board is in the process of amending the rule by deleting this requirement. As of April 2006, the Board is considering additional proposed changes for approval of Physician office accrediting organizations (64B8-9.0092)</p> <p>Standard of Care for Office Surgery.</p>

	8/14/07			
Illinois	Rules for the Administration of the Medical Practice Act of 1987, Section 1285.340	Office Based Surgery	Dept. of Professional Regulation	The Department has established minimum CME and ACLS certification requirements for operating physicians and anesthesiologist who administer certain levels of anesthesia in physician offices. However, in 2004 a court invalidated the rule requiring surgeons to have certain training and experience in anesthesia in order for a CRNA to provide anesthesia.
Indiana	Proposed Rules	Office Based Surgery	Medical Licensing Board of Indiana	Proposed rule LSA Document #06-561 was passed by the board on September 27, 2007 and sent to Appropriations committee then to the Governor.
Kansas	Guidelines	Office Based Surgery	Kansas Medical Society	The society adopted guidelines for surgical procedures in the office setting involving anesthesia levels greater than minimal sedation. The guidelines recommend accreditation for facilities where procedures are performed that require general anesthesia.
Kentucky	Guidelines for Office Based Surgery	Office Based Surgery	Board of Medical Licensure	On December 18, 2003 the Board adopted guidelines that outline standard of care. It is recommended that offices where Level II and Level III procedures are performed obtain accreditation by AAAASF, AAAHC, or JCAHO. Additional requirements approved include registration, reporting of adverse incidents, and limits on liposuction.
Louisiana	Louisiana Administrative	Office Based Surgery	State Board of Medical	The Board adopted regulations on office-based surgery that took effect on January 1, 2005.

	Code, Title 46, Chapter 73		Examiners	Procedures that require no anesthesia, local or topical anesthesia, regional anesthesia or conscious sedation are exempt. Offices accredited by AAAASF, AAAHC, or JCAHO and licensed facilities are exempt from the regulations.
Massachusetts	Massachusetts Medical Society Guidelines for Office Based Surgery	Office Based Surgery	Mass. Medical Society; Board of Registration in Medicine	The Medical Society guidelines were endorsed by the Board. The guidelines are based on the level of anesthesia and complexity of the procedure/procedures performed. In addition to other requirements, the recommendations provide that offices where surgery other than minor procedures are performed should be accredited by AAAASF, AAAHC, JCAHO, AOA, AAOMS or any other agency approved by the Board.
Mississippi	Mississippi State Board of Medical Licensure, Rules and Regulations, Article XXIV	Office Based Surgery	State Board of Medical Licensure	Depending on the level of surgery performed, the requirement of the Board address surgeon registration, surgical logs, surgical records, reporting of adverse incidents, equipment, supplies, and training of surgeons. There is an alternative credentialing mechanism for procedures outside a physician's core curriculum. Strong recommendations are made for the amount of fat that can be removed using tumescent liposuction.
New Jersey	NJAC 13:35-4A.12; 17; A. 335 (pending)	Office Based Surgery and Anesthesia	Board of Medical Examiners	Regulations govern the administration of anesthesia in the office-based setting including standards for training, credentialing, staffing, equipment and reporting.

				<p>The Board developed a list of acceptable in-office procedures and alternative privileging application forms, and selected an entity to review the documentation submitted along with the application.</p> <p>Pending legislation proposes that the department regulate and inspect unlicensed surgical facilities that are not accredited or participate in Medicare or managed care provider networks and do not have privileges in any health care facility.</p>
New York	<p>Legislation passed 2007(SB6052) Deadline for Implementation is July 2009</p>	Office Based Surgery	Dept. of Health	<p>The Dept. of Health adopted a committee report in 2000 recommending voluntary clinical guidelines for office-based surgery to serve as an appropriate standard of care, excluding minor procedures. The report recommends that all office-based practices be accredited by one of the nationally recognized agencies (AAAASF, AAAHC, JCAHO, or AMAP).</p> <p>In 2005 the committee began drafting recommendations for proposed legislation following the current guidelines. SB6052 was signed by Governor Spitzer on August 7, 2007.</p>
North Carolina	Position Statement on Office Based Procedures	Office Based Surgery	State Medical Board	<p>The Board approved a position statement on January 23, 2003 of standards of practice. Any physician performing level II or III procedures in an office-based facility should be able to demonstrate substantial compliance with the guidelines or obtain accreditation by a nationally recognized agency such as AAAASF, AAAHC,</p>

	H. B. 1060	Gastrointestinal Endoscopy	Division of Health Services	<p>JCAHO, HRAP or other Board-approved agency. Failure to comply creates the risk of disciplinary action by the Board.</p> <p>A law went into effect on August 31, 2005 that requires physicians providing gastrointestinal endoscopy services in unlicensed facilities to obtain a license. A Certificate of Need (CON) will be required unless the following conditions are met: A license application is postmarked for delivery to the Division of Health Services by December 21, 2006; the applicant verifies by affidavit submitted to the Division within 60 days of the effective date of the law, that the facility is in operation as of August 31, 2005 or a completed application for a building permit for the facility was submitted by August 31, 2005; the facility has been accredited by AAAASF, AAAHC, or JCAHO by the time the license application is postmarked; and the license application includes a commitment and plan for serving indigent and medically underserved populations.</p>
Ohio	Administrative Code Sections 4731-25-01 to 07	Office Based Surgery	State Medical Board	<p>The Board approved regulations requiring accreditation of offices where physicians or podiatrists using moderate sedation to general anesthesia effective January 1, 2004. Application is required within 18 months of the effective date. AAAASF, AAAHC, JCAHO and HFAP are recognized by the Board. The rules contain</p>

				education, training and experience requirements for surgery and anesthesia and limits on liposuction
Oklahoma	Guidelines	Office Based Surgery	State Board of Medicine	The board adopted guidelines for physicians who perform procedures that require anesthesia or sedation in office-based facilities.
Oregon	Oregon Administrative Rules Sec. 818-012-0005	Office Based Surgery	Oregon Medical Assn. (OMA)	OMA has developed standards for accreditation of facilities where minor procedures or those requiring conscious sedation are performed in an office-based facility. OMA is considering revisions, including possible use of accreditation by outside entities.
Pennsylvania	PA Rules and Regulations, Title 28, Part IV, Subpart F, Chapters 551-571	ASC and Office Based Surgery	Dept. of Health	For Class A facilities, office-based surgical facilities must register and obtain accreditation from AAAASF, AAAHC or JCAHO. For Class B or C facilities, licensure is required but the rules allow the Department to delegate the survey function to a nationally recognized accrediting agency. Currently, the Department conducts its own licensure surveys.
Rhode Island	RI Statutes, Ch. 23-17 Dept. of Health Rules, R23-17-POSPST	Office Based Surgery	Dept. of Health	The department issued regulations requiring licensure for offices in which surgery other than minor procedures are performed with additional requirements. Application for accreditation by AAAASF, AAAHC or JCAHO is required within nine months of initial licensure with accreditation completed within two years after licensure. Accreditation must be maintained. In June 2002, the law was amended to specifically include

				office-based podiatry.
South Carolina	Regulation Chapter 81-96	Office Based Surgery	Board of Medical Examiners	The Board approved guidelines for office-based surgery, requiring accreditation by an approved agency, including AAAASF, AAAHC, JCAHO or AOA for offices that perform level II and III procedures, in addition to other requirements. The guidelines are recommended as an appropriate standard of care. HB4099 -signed by governor and enacted 6/13/07 now <i>requires</i> accreditation by one of four national accrediting agencies including AAAASF, AAAHC, JCAHO, or AOA for Level II and Level III facilities.
Tennessee	Rule 0880-2.21	Office Based Surgery	Tennessee Board of Medical Examiners	The Board adopted regulations effective on October 17, 2005, to include administration, quality of care, credentialing, anesthesia, liposuction restrictions and a time limit for surgery. Facilities performing Level III procedures would be required to be accredited by AAAASF, AAAHC or JCAHO within one year of the rules effective date. Some Level II requirements would be waived for accredited facilities. HB1056 -Enacted on 06/07/07 mandates that all Level III facilities must be state licensed and must be in the application process for state licensure by October 1, 2007. Statute does not recognize accreditation in lieu of state licensure for Level III facilities only.
Texas	22 TAC Secs. 192.1-192.6;	Office Based Surgery not	State Board of Medical	Both Boards adopted regulations governing physicians and CRNAs providing or

	22 TAC Secs. 221.1-221.17	part of a licensed hospital or ASC	Examiners; State Board of Nursing Examiners	administering general or regional anesthesia or monitored anesthesia, in outpatient settings. The regulations exempt licensed ASCs and outpatient facilities accredited by AAAASF, AAAHC or JCAHO.
Washington	Regulations HB1414 With the exception of Section 7, this act takes effect July 1, 2009	Office Based Surgery	Washington State Medical Assn. Medical Quality Assurance Commission	The Medical Assn. adopted guidelines for office-based anesthesia that include accreditation by AAAASF, AAAHC, JCAHO or Medicare for offices that administer conscious or deep sedation or general anesthesia. On November 19, 2004 the Commission withdrew a draft office surgery rule it had issued, announcing that it will develop a policy and possibly seek legislation to support regulation of office-based facilities. Governor signed HB1414 on 05/02/07 regulating office based surgery. Regulations acknowledge accreditation by approved accrediting organizations.

STATES WITH REGULATIONS IN DEVELOPMENTAL OR DRAFTING STAGE

Arizona

This information has been retrieved from a variety of sources. AAAASF cannot guarantee the complete accuracy however, the association continues to research state legislation and guidelines for ambulatory health care facilities and update changes at least annually.

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We appreciate your assistance!