



HEALTH LAW PRACTICE

ALERT

WINDOW CLOSING TO OPEN AN ASC IN NJ

by Elizabeth G. Litten

Senate Bill 787, signed into law by Governor Jon S. Corzine on March 21, 2009, significantly amended New Jersey's physician self-referral law, known as "the Codey Law" after its sponsor, Senator Richard J. Codey. S787 not only freezes the number of certain physician-owned ambulatory care and ambulatory surgery facilities to which physician owners may refer patients, but it also sets September 17, 2009 (180 days following the effective date of the Codey Law amendments), as the deadline by which plans for new surgical practices and new ambulatory facilities offering surgery services must be filed.

Ambulatory surgery center (ASC) applicants should be filing their facility plans and required documents **now** with the New Jersey Department of Community Affairs (DCA) in order to have the best chance of meeting the September 17 deadline. The DCA may take up to 20 days to process a filed Project Review Application, and an incomplete application could potentially further delay the DCA's issuance of a Project Number. The DCA Project Number must be "in hand" by September 17 in order for an applicant to comply with the Codey Amendment deadline. Applications that have been submitted but have not been issued a DCA Project Number by September 17 will be precluded from applying for a new ASC license thereafter.

To meet this impending deadline, the following steps need to be taken as soon as possible:

- (1) Complete the New Jersey DCA [Project Review Application](#). The total project cost and architect/engineer name are among the information requested.

- (2) Complete the New Jersey DCA [Plan Review Fee Schedule](#). The fee schedule specified in Section 2 should be used. This applies to health care facilities and provides the rates to calculate the fee to be paid to the DCA for the project. The required fee must be submitted to the DCA with the completed application.
- (3) Complete the New Jersey DCA [Health Care Plan Review Record & Engineer Checklist](#). There is a choice to submit either a set of *schematic plans or a full set of preliminary plans*. The DCA will accept either option for purposes of review and issuing a DCA Project Number if the application is otherwise deemed "complete."

The New Jersey DCA "[Health Care Plan Review Procedures](#)" explains in more detail the procedures for submitting a "complete" application to the DCA for review. Once the entire package is submitted, the DCA generally has up to **20 days** to perform an initial completeness review and let the applicant know whether it will issue a Project Number (e.g., once the DCA deems the filing "complete") or if there are items that need to be corrected before a Project Number will be issued.

If you have any questions, contact Elizabeth G. Litten at 609.895.3320 or elitten@foxrothschild.com or any member of our [Health Law Practice](#).

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