### Part 7

## COVID-19 Crisis:

# The Road Back: Guidelines for the Resumption of Elective Surgery in New Jersey

#### John D. Fanburg, Esq.

Managing Member and Healthcare Law Chair, Brach Eichler LLC

#### **Jeff Shanton**

President, New Jersey Association of Ambulatory Surgery Centers

#### Eugene L. Brenycz, JD, MPA

Regulatory Officer, NJ Department of Health, Division of Certificate of Need and Healthcare Facility Licensure

### Stefanie Mozgai, BA, RN, CPM

Assistant Commissioner, NJ Department of Health, Health Facility Survey & Field Operations

#### **Andrew Weiss, CASC**

Administrator/AVP, Summit Surgical Center

May 21, 2020

Ambulatory Surgery Centers Resuming Elective Surgeries and Invasive Procedures are Required to Take These Additional Steps to Protect the Healthcare Workforce and Patients Being Served

- 1. Comply with State and CDC guidelines to protect against further spread of COVID-19;
- 2. Institute screening of health care staff for symptoms of COVID-19 and have policies in place for removal of symptomatic employees from the workplace;
- 3. Enforce social distancing requirements in work areas and common areas;
- 4. Require masks for patients, except patients receiving services that would not allow for the use of a mask, and for any patient support person;

Ambulatory Surgery Centers Resuming Elective Surgeries and Invasive Procedures are Required to Take These Additional Steps to Protect the Healthcare Workforce and Patients Being Served (continued)

- 5. Have an established plan for cleaning and disinfecting prior to using facilities to serve non-COVID-19 patients; and
- 6. Facilities should be prepared to modify resumption of clinical services in conjunction with surge status (as surge status increases, access to nonurgent care should decrease so as to not overwhelm the healthcare system) and to repurpose and redeploy staff to urgent care roles to the extent feasible.

## Ambulatory Surgical Centers are Eligible to Resume these Elective Surgeries and Invasive Procedures, Based Upon Current or Potential Capacity

Ambulatory surgery centers can resume procedures based on the following capacity data from the hospital the facility has a transfer agreement as required on slide 14. The hospital shall have downward trajectory calculated using the average of the three most recent days:

- 1. Influenza Like Illness (ILI) or COVID-19 like syndromic cases;
- 2. COVID-19 infection rates;
- 3. COVID-19 hospitalizations;
- 4. COVID-19 emergency room admissions;
- 5. COVID-19 Intensive Care Unit (ICU), Critical Care and Medical Surgical bed utilization;
- 6. Ventilator utilization; and
- 7. Ventilator availability.

### Standards to Guide Prioritization Decisions

- Ambulatory surgery centers are encouraged to gradually resume full scope of services when possible and safe to do so, based on these guidelines.
- Before services resume, the physical layout and flow of care delivery areas shall change so that social distancing is maintained.
- There shall be a process for determining the priority of types of services delivered that shall incorporate the following:

### Standards to Guide Prioritization Decisions (continued)

- 1. Care Prioritization and Scheduling
  - Facilities shall establish a prioritization policy for providing care and scheduling.
  - All cases shall be reviewed by a site-based governance group to ensure consistency.
    - i. The governance group shall develop and review prioritization of surgical and procedural care for essential cases (e.g., fractures, cancer).
    - ii. Model capacity based on extended turnover and spacing out of procedures and any pre-/post-procedure appointments.

### Standards to Guide Prioritization Decisions (continued)

- iii. The governance group may consider:
  - 1. Prioritizing previously cancelled and postponed cases;
  - 2. Specialties' prioritization;
  - 3. Strategy for allotting daytime "OR/procedural time";
  - 4. Identification of essential health care professionals and medical device representatives when necessary for procedures;
  - 5. Strategy for increasing "OR/procedural time" availability (e.g., extended hours or weekends); and

### Standards to Guide Prioritization Decisions (continued)

- 6. Issues associated with increased OR/procedural volume:
  - a) Ensure primary personnel/service availability (e.g., surgery, anesthesia, nursing, housekeeping, engineering, sterile processing, etc.);
  - b) Ensure adjunct personnel/contracted services availability (e.g., pathology, radiology, etc.);
  - c) Ensure supply availability for planned procedures (e.g., anesthesia drugs, procedure-related medications, sutures, disposable and non-disposable surgical instruments); and
  - d) New staff training.

## PPE, Staffing, and Transfer Requirements

- 1. Personal Protective Equipment
  - The following shall be followed when resuming services:
  - i. Facilities shall have a plan, consistent with CDC and DOH recommendations, for patient and patient support person use of PPE;
  - ii. Healthcare workers must wear appropriate PPE consistent with CDC and DOH recommendations;
  - iii. COVID-19 PPE policies and procedures shall be in place for health care workers who are not in direct patient care roles (i.e. front desk registration, schedulers, environmental cleaning, etc.); and

## PPE, Staffing, and Transfer Requirements (continued)

- iv. Facilities should implement policies for PPE that account for:
  - 1. Adequacy of available PPE supply, with a minimum sevenday supply on hand;
  - 2. Staff training on and optimized use of PPE according to non-crisis standards of care; and
  - 3. Policies for the conservation of PPE should be developed as well as policies for any extended use or reuse of PPE per CDC and DOH recommendations and FDA emergency use authorizations.

# Staffing

Ambulatory surgery centers must:

- i. Have trained and educated staff appropriate to the planned surgical procedures, patient population and facility resources;
- ii. Use available testing to protect staff and patient safety whenever possible and implement guidance addressing requirements and frequency for patient and staff testing; and
- iii. Have available qualified staff to safely perform procedures, provide care and provide any needed follow up.

# Disinfection Protocols, Supplies and Equipment Maintenance

Facilities shall implement the following disinfection and cleaning protocols:

- i. Confirm that cleaning and disinfecting supplies are COVID-19 compatible;
- ii. Ensure adequate supply of hand sanitizer, tissues, and non-touch trash receptacles with disposable liners in all restrooms and patient areas;
- iii. Ensure all equipment is up to date on preventative maintenance and tested before use/reopening;
- iv. Check all supplies for expiration dates;

# Disinfection Protocols, Supplies and Equipment Maintenance (continued)

- v. Take needed action such as removing magazines from waiting areas; and
- vi. Confirm/update all preventive infection policies and procedures.

# Transfer Agreements

• To prepare for a potential second wave of COVID-19, each ambulatory surgery center must confirm that it has a transfer agreement with an acute healthcare facility partner and confirm and document before each surgery day that its acute healthcare facility partner has appropriate number of intensive care unit (ICU) and non-ICU beds to support its potential need for emergent transfers, personal protective equipment (PPE), ventilators, medications, and trained staff to treat all patients.

# Cohorting COVID-19 and Non-COVID-19 Patients

• Ambulatory surgical centers shall not perform procedures on COVID-19 positive patients.

## Requirements that Patients Seeking These Procedures Must Undergo Testing, Self-Quarantine, and Other Preventive Measures

- 1. Scheduling must be coordinated to promote social distancing:
  - i. Minimize time in waiting area;
  - ii. Stagger appointment hours; and
  - iii. Post signs at entrances in appropriate language(s) for signs/symptoms of illness, fever and precautions
- 2. Facilities must test (specimen collected and result received) each patient within a 96-hour maximum before a scheduled procedure with a preoperative COVID-19 RT-PCR test and ensure COVID-19 negative status.

## Requirements that Patients Seeking These Procedures Must Undergo Testing, Self-Quarantine, and Other Preventive Measures (continued)

- 3. Facilities shall counsel patients to practice the following:
  - i. Self-quarantine following testing and up until the day of surgery;
  - Social distance and wear a mask in their place of selfquarantine;
  - iii. Immediately inform the facility if there is any contact with a suspected or confirmed case of COVID-19;
  - iv. Immediately inform the facility if there is any contact with a person with symptoms consistent with COVID-19; and
  - v. Immediately inform the facility if the patient develops any symptoms consistent with COVID-19 while in self-quarantine.

## Requirements that Patients Seeking These Procedures Must to Undergo Testing, Self-Quarantine, and Other Preventive Measures (continued)

- 4. Facilities must have a process:
  - i. To screen patients for COVID-19-related symptoms prior to scheduled procedures; and
  - ii. To ensure that the patient has worn a mask, social quarantined, and social distanced since testing.

## Policies Surrounding Visitors

### 1. Visitation

Ambulatory surgery centers must continue to prioritize the safety and well-being of patients, patient support persons, and staff. Until further notice, no visitors will be allowed, except as permitted below or in waivers from DOH available at <a href="https://nj.gov/health/legal/covid19/">https://nj.gov/health/legal/covid19/</a>:

- i. Pediatric patients may have one parent or guardian;
- ii. Same day surgery or procedure patients may have one support person;
- iii. Outpatients may be accompanied by one adult.

## Policies Surrounding Discharge of Patients After the Procedures are Completed

 Ambulatory surgical center discharge policies are not changed.

# Reporting Metrics Regarding the Resumption of These Procedures

To ensure the ability of health systems and hospitals to surge during a potential second wave of COVID-19, facilities must:

- 1. Comply with Governor Murphy's Executive Order No. 111 (2020) concerning reporting of data, including PPE inventory on a daily basis. The portal designated by the New Jersey Office of Emergency Management under Executive Order No. 111 (2020) is maintained by the New Jersey Hospital Association and is accessible here: <a href="https://www.ppe.njha.com">www.ppe.njha.com</a>; and
- 2. Report case load on a weekly basis through the same NJHA portal (www.ppe.njha.com).

# Sign Up for Our Healthcare Updates

 To sign up for our Healthcare email updates on the COVID-19 crisis please visit: <u>bracheichler.com/subscribe-to-insights</u> or email akatz@bracheichler.com

# Follow Us on Social Media for Updates







### Contact Us

### John D. Fanburg, Esq.

Member and Chair, Healthcare Law, Brach Eichler <a href="mailto:jfanburg@bracheichler.com">jfanburg@bracheichler.com</a> | 973-403-3107

#### **Jeff Shanton**

President, New Jersey Association of Ambulatory Surgery Centers <a href="mailto:jssurgetr.com">jshanton@jssurgetr.com</a> | 201-637-9889