

Best Practices for Governance Documents in Ambulatory Surgery Centers

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Ambulatory Surgery Centers (ASCs) play a vital role in ensuring patients receive high-quality, efficient care in settings outside of the traditional hospital. To perform reliably and compliantly, ASCs depend on clear, robust, and thoughtfully designed governance documents that define authority, accountability, and communication among owners, leaders, clinicians, and administrators. These foundational materials not only establish the ASC's operational framework, but also help ensure that high-quality patient care, safety, and regulatory compliance remain prioritized.

This article explores the critical role of governance documents in the efficient operation of an ASC, as well as how those documents should be designed and maintained in light of applicable regulations and the ASC's operational realities. We begin by examining the relevant regulatory framework, including both Medicare Conditions for Coverage and examples of additional obligations imposed by individual states. Next, we identify key stakeholders in ASC governance and outline their respective roles and responsibilities within the ASC hierarchy. After establishing this foundation, we translate these responsibilities by exploring the core documents essential to effective governance, including bylaws, operating agreements, and related instruments. The article concludes with practical takeaways that ASC leaders can apply to draft and maintain these documents, ensuring ongoing compliance and operational excellence.

Regulatory Framework: Importance of Appropriate Governance Documents

Federal Regulations: Medicare Conditions of Coverage¹

ASCs must comply with the Centers for Medicare & Medicaid Services (CMS) Conditions for Coverage, which establish requirements for ASC policies, procedures, and quality assurance/performance improvement (QAPI) programs. Key mandates include:

- **Governing Body Responsibilities:** The ASC's governing body must assume full legal responsibility for policies governing the ASC's operation, including oversight of the QAPI program, ensuring safe and high-quality patient care, and developing disaster preparedness plans.
- **Emergency Equipment:** Policies must specify the types of emergency equipment required for use in the ASC's operating room(s), with coordination between the medical staff and the governing body.
- **Medical Staff Accountability:** Medical staff, including the Medical Director, must be accountable to the governing body.

State Regulations

In addition to Medicare Conditions for Coverage, each state imposes its own unique set of requirements that ASCs must follow. These state- specific regulations often address additional aspects of ASC governance, administration, and patient care that go beyond federal standards, and are required to maintain good standing with state licensure and public health authorities. To illustrate how state regulations influence ASC governance, this section examines the regulatory frameworks of Colorado, Georgia, and Texas as representative examples.

Colorado²

Colorado regulations outline a variety of additional requirements, including specific procedures for regular meetings and recordkeeping, as well as detailed expectations for quality management, infection prevention, and the delegation of authority within the ASC. Colorado requires that the ASC's governing body adopt bylaws and rules for provider staff, meet regularly, maintain meeting records, and appoint committees. It must also implement a quality management program to ensure adequate investigation, control, and prevention of disease, and must adopt policies on admissions, surgical procedures, and the timely completion of medical records.

The administrator, who acts as the official representative of the governing body and CEO of the ASC, is responsible for the development, implementation, and administration of ASC policies and procedures. The administrator is delegated authority in writing by the governing body and acts as the liaison among the governing body, provider staff, and other ASC departments.

The Medical Director, who is appointed by the governing body, must hold regular meetings of the medical staff. There must be bylaws, rules, regulations, and policies for the proper conduct of the medical staff and credentialing of its members.

Georgia³

Georgia requires the governing body to hold certain responsibilities including appointing an administrator, establishing organizational objectives and policies, and developing mechanisms for ongoing quality assurance, including evaluation of patient care and staff accountability.

The administrator, who is responsible for the day-to-day management and operation of the ASC, must have immediate personal and daily supervision, with authority and duties defined in writing. For ASCs with more than four operating rooms, the administrator must be full-time.

The governing body must also adopt bylaws outlining the composition, authority, procedures, and mechanisms for appointment to the medical staff and granting privileges based on education, training, and demonstrated competence.⁴ The ASC is required to have clear organizational objectives stated within comprehensive policies and procedures.⁵ Additionally, the ASC must have written affiliation agreements with a licensed hospital for backup services and patient transfers.⁶

Texas⁷

Texas requires the governing board to maintain responsibility for approving the scope of surgical and anesthesia services provided by the ASC, as well as assuring adequate supervision of those services. The governing board must also grant clinical privileges and develop policies for infection control, quality assurance, emergency preparedness, and other operations, while maintaining oversight of tissue examination, appointing qualified personnel, and maintaining compliance with licensure conditions. Patient satisfaction assessments regarding services and facilities provided by the ASC must be implemented and reviewed by the governing body.

Who Are the Stakeholders?

Compliance with state and federal statutes and regulations requires a clear understanding of ASC stakeholders, their rights and obligations, and how those are defined in the ASC's foundational documents.

Owners (Members, Shareholders, Partners)

- Owners are governed by the Articles of Incorporation, Articles of Organization, member agreements, and the Operating Agreement or Bylaws, as applicable.
- **Responsibilities:** Owners appoint, elect and remove officers and managers, receive regular financial and compliance reporting, and set expectations for independent audits and conflict-of-interest disclosures. Documents outline meeting cadence, notice, and recordkeeping.

Managers/Governing Body

Owners appoint or elect the governing body and may retain a management company. The Operating Agreement or Bylaws define composition, terms, removal, and vacancies.

Responsibilities: The governing body holds ultimate authority and responsibility for the ASC's operations, including appointing and overseeing ASC administration and clinical and operational functions. The Joint Commission guidelines require that the operational responsibilities and accountabilities of the governing body be described in a written document,⁸ with leaders identified and collectively responsible for defining the ASC's mission and for creating the programs and policies needed to fulfill that mission.⁹

Administrators

- The administrator (typically the CEO/Administrator), leads day-to-day operations and implements governing body directives, though other C-Suite members (such as the CNO, CFO, COO, CTO, etc.) may be involved as well. Governing documents and job descriptions define qualifications, authority limits, and evaluation criteria.
- **Responsibilities:** The administrator develops and implements policies and procedures; manages staffing and training; prepares operating and capital budgets; oversees vendor contracting within delegated authority; maintains survey readiness; coordinates QAPI and performance improvement; and ensures timely and accurate reporting to the governing body.

Medical Director

- The governing body or manager appoints the Medical Director, who may serve under a contract. Governing documents and medical staff bylaws define qualifications, scope, time commitment, and evaluation. The Medical Director reports to the administrator or the medical executive committee.
- **Responsibilities:** The Medical Director leads implementation of clinical policies, oversees medical staff performance, participates in credentialing and privileging, and supports QAPI and peer review. The role coordinates between infection prevention, anesthesia services, and nursing leadership; leads case review and variance analysis; and helps develop clinical pathways, transfer protocols; and emergency preparedness drills.

Medical Staff

- The medical staff consists of practitioners granted privileges, including physicians and, as permitted by state law and ASC policy, other advanced practice providers. ASC leadership is responsible for ensuring that independent practitioners not employed by the ASC have the

correct credentials and privileges for the services they provide.¹⁰ The medical staff is typically granted responsibility for quality of care by the manager(s).

- **Responsibilities:** The medical staff maintains responsibility for quality of care, participates in QAPI, adheres to documentation and timeliness standards, and complies with policies on informed consent, patient selection criteria, time-outs, and post-procedure follow-up. Members participate in peer review, fair hearings, and performance evaluations (for example, FPPE/OPPE) as set forth in the medical staff bylaws and policies.

Foundational Documents: Structure and Best Practices

Foundational governance documents are the backbone of effective ASC management. Each key stakeholder relies on the ASC's governing documents to clearly articulate their roles, responsibilities, and authority. When thoughtfully crafted and diligently maintained, organizational documents ensure clarity, accountability, and operational efficiency, all while supporting the ASC's commitment to patient safety and regulatory compliance.

A well-structured set of governance documents should begin by describing the overall authority and accountability framework of the ASC. The governing body's structure, powers, and relationship to other stakeholders should be outlined in detail, typically across a combination of bylaws, operating agreements, and related policies. These documents must be kept current, with mechanisms in place for version control, amendment procedures, and document retention to ensure they remain relevant as the ASC evolves.

An essential best practice is the integration of governance documents into the broader compliance framework of the organization. This means embedding policies on conflicts of interest, codes of conduct, whistleblower protections, and reporting lines directly into the foundational documents, thereby reinforcing a culture of transparency and ethical behavior. Furthermore, these documents should delineate the interplay between governance, clinical leadership, and administrative management, ensuring each group's responsibilities are distinct yet complementary. This clarity helps prevent role confusion and ensures that accountability for quality, safety, and financial stewardship is never ambiguous.

For owners or members of the ASC, foundational documents such as the Articles of Organization or Articles of Incorporation, operating agreements, and bylaws serve as the legal and operational blueprint for the business. These materials should clearly define the rights and obligations of members, procedures for admitting or removing members, rules for capital contributions and profit distributions, and the mechanisms for dispute resolution. It is crucial that these documents are consistent with one another, written in accessible language, and periodically reviewed to ensure that buy-in and buy-out provisions, voting rights, and compliance triggers are practical and up to date.

Managers and the governing body rely on operating agreements and bylaws that specify how managers are selected, what authority they possess, and how key decisions are made. These documents should make explicit any powers reserved for members, outline the relationship between management and administration, and provide clear guidance for delegating authority. Procedures for convening meetings, making emergency decisions, and removing or replacing managers should be transparent and fair, supporting both stability and adaptability in ASC leadership.

When a management company is involved, the management agreement and operating agreement must work in tandem to clarify the scope of the company's authority and its relationship to the ASC's owners and managers. Fiduciary duties, compensation arrangements, and potential conflicts of interest must be addressed, especially in light of fraud and abuse regulations. Consistency between these agreements is vital, as is planning for contingencies such as the termination of the management agreement.

Medical staff governance is equally critical. Medical staff bylaws and related policies must be tailored to the unique environment of the ASC, rather than simply replicating hospital templates. These documents should define the chain of command, outline credentialing and privileging processes, and describe committee structures and the responsibilities of the medical staff. They must also clarify the relationship between the medical staff and the ASC's governing body, ensuring that clinical policies and operational procedures are aligned. Provisions for delegation, checks and balances, and reporting, such as reporting obligations to the National Practitioner Data Bank, should be clearly articulated.

Robust governance documents are not static legal forms but living instruments that must be adapted as the ASC grows and regulations change. Their careful drafting and ongoing maintenance are essential to the ASC's success.

Conclusion: Key Takeaways and Best Practices

Developing and maintaining comprehensive governance documents is essential to the success of an ASC. By establishing a diverse and committed governing body, ASCs lay a strong foundation for effective oversight and decision making to foster excellent patient care. Clear governance structures, reflected in well-drafted foundational documents, help ensure that each stakeholder understands their role and responsibilities, reducing the risk of confusion and conflict.

Quality assurance and patient safety must remain at the forefront of all governance efforts. This requires not only compliance with federal and state regulations but also the implementation of practical policies and procedures that support continuous improvement. Financial viability and risk management should be embedded into the governance framework, enabling the ASC to adapt to

changing circumstances while safeguarding its mission. Strategic planning, along with strong leadership and operational teams, ensures that the ASC can meet evolving challenges and maintain high standards of care.

Ultimately, the best practices for ASC governance documents are driven by clarity and accountability. By allowing these principles to guide the drafting and maintenance of an ASC's foundational documents, facilities are well-equipped to deliver safe, high-quality care while navigating a complex and constantly changing regulatory environment.

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1 42 C.F.R. pt. 416.

2 6 Colo. Code Regs. 1011-1 ch. 20.

3 Ga. Comp. R. & Regs. 111-8-4.

4 Ga. Comp. R. & Regs. 111-8-4-03.

5 Id.

6 Ga. Comp. R. & Regs. 111-8-4.09.

7 26 Tex. Admin. Code pt. 1, ch. 508.6.

8 The Joint Commission Standard GLD 1.1.

9 The Joint Commission Standard GLD 1.3.

10 The Joint Commission Standard GLD 6.2.

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