

			
	Created: 8/2022	Reviewed:	Revised:

PHYSICIAN INVESTOR TRIGGERING EVENTS

ETHICS & COMPLIANCE DEPARTMENT

SCOPE:

Applies to AMSURG Corp. and its subsidiary or joint venture entities, and any employees or independent contractors of those entities, whether part-time or full-time, including affiliated ambulatory surgery center teammates (“AMSURG”).

PURPOSE:

To establish a protocol for identifying and acting on Triggering Events as defined in the operating agreements of the ambulatory surgery centers in which AMSURG has a controlling interest or otherwise manages (“ASCs”).

POLICY:

AMSURG works with physician partners who are committed to high-quality, high-value surgical services and have the capability to contribute to the operations of the ASC.

AMSURG is committed to ensuring that its relationships with physicians are compliant with applicable laws, including but not limited to the Anti-Kickback Statute. AMSURG does not offer, pay, provide, or accept any remuneration, including any payment of any type, for referrals of patients. *See* AMSURG Anti-Kickback Statute Policy.

PROCEDURE:

1. Operations leads are assigned to work with ASCs. Each Operations lead shall be responsible for monitoring the activities of the ASCs to which he or she is assigned and identifying when Triggering Events occur. Within 15 days of learning that a Triggering Event occurred, Operations leads must report the Triggering Event to the ASC Board of Directors (“Board”) and the AMSURG Legal Department.

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2. Within 30 days of the ASC Board receiving notification that a Triggering Event has occurred, the AMSURG representatives on the Board shall ensure that the Board decides whether the other owners shall purchase the ownership share of the physician that caused the Triggering Event. AMSURG shall follow the procedure set out in the operating agreement for the repurchase of the shares.

3. Each ASC shall be governed by an operating agreement. Each operating agreement shall set forth Triggering Events and the rights and obligations of all other investors in the ASC in the event that any investor causes a Triggering Event to occur.
 - a. SINGLE-SPECIALTY ASC: Each operating agreement for a single-specialty ASC that is executed after the effective date of this Procedure must include as a Triggering Event the failure of a physician investor to submit an annual affirmation to AMSURG representing that at least one-third of the physician’s medical practice income for the prior 12-month period was derived from his or her performance of outpatient surgical procedures that can be performed at an ASC.

 - b. MULTI-SPECIALTY ASC: Each operating agreement for a multi-specialty ASC that is executed after the effective date of this Procedure must include as a Triggering Event the failure of a physician investor to submit an annual affirmation to AMSURG representing that the physician performed at least one-third of his or her outpatient surgical procedures at the ASC during the prior 12-month period, and that at least one-third of the physician’s medical practice income for the prior 12-month period was derived from his or her performance of outpatient surgical procedures that can be performed at an ASC.

 - c. For operating agreements executed prior to the effective date of this Procedure that do not contain such annual affirmation requirements, AMSURG shall seek to amend those operating agreements where practicable to incorporate these affirmations as a Triggering Event.

 - d. For any sale by AMSURG to a physician of an ownership interest in an ASC that is executed after the effective date of this Procedure, the contract of sale or joinder to the Operating Agreement shall include a requirement that the physician purchasing the ownership share submit an annual affirmation as described in sub-paragraphs a. and b. above (as applicable). The contract shall specify that if the physician fails to submit such

			
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affirmation annually, the physician must sell all of his or her investment shares in the ASC back to the original seller or to the ASC.

- e. Each operating agreement executed or amended as per subsection c., above, after the effective date of this Procedure must include a template annual affirmation form appended as an exhibit. This form must include clear directions on how physician partners submit the form annually to AMSURG. *See Attachment B-1, Single-Specialty ASC Annual Affirmation Statement and Attachment B-2, Multi-Specialty Annual Affirmation Statement.*
- f. The Ethics & Compliance Department is responsible for collecting and maintaining all annual affirmation forms on file.

POLICY REVIEW:

The Ethics & Compliance Department will review and update this policy, when necessary, in the normal course of its review of the Company’s Ethics & Compliance Program.

Attachment B-1

SINGLE SPECIALTY ASC ANNUAL ELIGIBILITY AFFIRMATION STATEMENT

The undersigned, who is an owner (directly or indirectly) of _____, LLC (the "LLC"), which owns and operates _____ [CENTER NAME], located in _____ [CITY, STATE] (the "Center"), hereby represents, warrants and affirms as follows:

1. I am a physician duly licensed to practice in the State of _____.

2. At all times in which I have had an ownership interest in the LLC, I have fully informed, and I agree that I will continue to fully inform, each patient that I refer to the Center that I have a direct or indirect investment interest in the Center.

YES NO

3. During the 12 calendar months immediately preceding the date of this statement:

I have derived at least one-third of my medical practice income from the performance of outpatient surgical procedures (as defined below). I intend to continue to derive at least one-third of my medical practice income from outpatient surgical procedures and will notify the Center's Board of Directors as soon as practicable if my medical practice changes and I can no longer meet this threshold:

YES NO

(For purposes hereof, the term "outpatient surgical procedures" means those surgical procedures that are on the list of Medicare covered procedures authorized to be performed in ambulatory surgical centers under applicable Medicare regulations, whether or not such procedures are paid for by Medicare, workers' compensation or other payors).

4. I agree that, with respect to any and all federal health care programs in which I participate (including Medicare and Medicaid), I will treat patients receiving benefits or assistance under such programs in a nondiscriminatory manner.

IN WITNESS WHEREOF, I affirm that to the best of my knowledge and belief all information herein is true, accurate and complete.

(Signature)

(Type Name)

Date: _____

If any response to the above is checked "No" attached a separate sheet and explain each "No" answer.

Attachment B-2

MULTI-SPECIALTY ASC ANNUAL ELIGIBILITY AFFIRMATION STATEMENT

The undersigned, who is an owner (directly or indirectly) of _____, LLC (the "LLC"), which owns and operates _____[CENTER NAME], located in _____[CITY, STATE] (the "Center"), hereby represents, warrants and affirms as follows:

1. I am a physician duly licensed to practice medicine in the State of _____.
2. At all times in which I have had an ownership interest in the LLC, I have fully informed, and I agree that I will continue to fully inform, each patient that I refer to the Center that I have a direct or indirect investment interest in the LLC.

YES NO

3. During the 12 calendar months immediately preceding the date of this Statement:
I have derived at least one-third of my medical practice income from the performance of outpatient surgical procedures (as defined below): and

YES NO

I have performed at least one-third of my outpatient surgical procedures at the Center.

YES NO

For purposes of this paragraph 3, I intend to continue to derive at least one-third of my medical practice income from outpatient surgical procedures and to perform at least one-third of my outpatient surgical procedures at the Center, and I will notify the Center's Board of Directors as soon as practicable if my medical practice changes and I can no longer meet this threshold:

YES NO

(For purposes hereof, the term "outpatient surgical procedures" means those surgical procedures that are on the list of Medicare covered procedures authorized to be performed in ambulatory surgical centers under applicable Medicare regulations, whether or not such procedures are paid for by Medicare, workers' compensation or other payors).

4. I agree that, with respect to any and all federal health care programs in which I participate (including Medicare and Medicaid), I will treat patients receiving benefits or assistance under such programs in a nondiscriminatory manner.

YES NO

IN WITNESS WHEREOF, I affirm that to the best of my knowledge and belief all information herein is true, accurate and complete.

(Signature)

(Type Name)

Date: _____

If any response to the above is checked "No" attached a separate sheet and explain each "No" answer.