



Department of Health

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TO: Office-Based Surgery Practices
FROM: Howard Zucker, M.D., J.D.
RE: Executive Order 202.10
DATE: April 4, 2020

This memo provides further guidance for the implementation of Governor Andrew M. Cuomo's [Executive Order Number 202.10](#), *Continuing Temporary Suspension and Modification of Laws Related to the Disaster Emergency* issued on March 23, 2020 and the March 23, 2020 [memo](#): *COVID-19 Directive to Increase Availability of Beds by a Minimum of 50% and Provide Necessary Staffing and Equipment*, as they relate to office-based surgery (OBS).

The March 23, 2020 memo included a table, developed by the Centers for Medicare and Medicaid Services (CMS), that delineates tiers of surgeries and procedures that should be postponed and those that may be performed through April 22, 2020, or until such time that the New York State Department of Health (NYSDOH) provides notice that normal operations may resume. Postponing non-essential surgeries and procedures, as well as prioritizing high-acuity surgeries and procedures, will assist the State's efforts to maximize the availability of hospital resources during the COVID-19 public health emergency.

The original CMS table did not specifically include Office-Based Surgery (OBS). Therefore, the CMS table below has been amended by NYSDOH to clarify its inclusion, with examples of procedures of particular relevance to OBS practices, such as plastic surgery.

Non-essential elective and non-urgent procedures are defined as all Tier 1 and Tier 2 "Actions." Please note that the procedures listed in "Examples" are not meant to be an exhaustive list. When making clinical decisions regarding the need for a procedure during the COVID-19 public health emergency, the goal of minimizing the use of hospital resources, such as emergency department visits, should be a high priority.

Thank you for your commitment to ensuring our inpatient resources are maximized during the COVID-19 response.

Tiers	Action	Definition	Locations	Examples
Tier 1a	Postpone surgery/procedure	Low acuity surgery/healthy patient – Outpatient surgery Not life-threatening illness	HOPD* ASC** OBS*** Hospital with low/no COVID-19 census	-Carpal tunnel release -Colonoscopy for routine screening -Cataracts - Hysteroscopy -Cosmetic surgery
Tier 1b	Postpone surgery/procedure	Low acuity surgery/unhealthy patient	HOPD ASC, OBS, Hospital with low/no COVID-19 census	-Endoscopies -Cosmetic surgery
Tier 2a	Consider postponing surgery/procedure	Intermediate acuity surgery/healthy patient Not life threatening but potential for future morbidity and mortality. Requires in-hospital stay	HOPD ASC, OBS, Hospital with low/no COVID-19 census	-Non urgent spine& ortho: including hip, knee replacement and elective spine surgery -Stable ureteral colic
Tier 2b	Postpone surgery/procedure if possible	Intermediate acuity surgery/unhealthy patient	HOPD ASC, OBS, Hospital with low/no COVID-19 census	
Tier 3a	Do not postpone	High acuity surgery/healthy patient	Hospital OBS	-Most cancers -Neurosurgery -Intractable Pain -Highly symptomatic patients
Tier 3b	Do not postpone	High acuity surgery/unhealthy patient	Hospital OBS	-Transplants -Trauma -Cardiac w/ symptoms -Limb threatening vascular surgery -Dialysis Vascular Access****

*Hospital Outpatient Department

**Ambulatory Surgery Center

*** Office-Based Surgery

**** “Maintaining lifelines for ESKD patients - ASDIN and VASA joint statement” at http://www.vasamd.org/resources/documents/Maintaining_lifelines_VASA_ASDIN.pdf; “CMS Adult Elective Surgery and Procedures Recommendations” at <https://www.cms.gov/files/document/31820-cms-adult-elective-surgery-and-procedures-recommendations.pdf>; and “COVID-19: Elective Case Triage Guidelines for Surgical Care” at <https://www.facs.org/covid-19/clinical-guidance/elective-case>.