

# Participating Surgeons Using Non-Participating Assistant Surgeons and Co-Surgeons Protocol

Policy Number: ADMINISTRATIVE 266.3 T0  
Effective Date: October 1, 2022

[Instructions for Use](#)

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## Related Policy

- [Participating Providers Using Non-Participating Providers Protocol](#)

## Applicable Lines of Business/Products

This policy applies to Oxford New York Commercial plan membership.

## Definitions

**Assistant Surgeon:** A Physician or other Health Care Professional who is assisting the Physician performing a surgical procedure.

**Co-Surgeons:** Several physicians (usually with different specialties) working together as primary Surgeons performing distinct part(s) of a procedure.

**In-Network Exception:** A determination made by Oxford to provide coverage for medical services rendered by an out-of-network (non-participating) provider at a level of coverage and cost share equivalent to that which would be applied to the same services if rendered by an in-network (participating).

**Non-Participating Provider Consent Form:** A required form a member must sign when a participating gastroenterologist seeks to use a non-participating anesthesiologist for non-emergent procedures.

**Participating Provider (Physician, Surgeon, Specialist, Hospital, Ancillary):** A Provider who has a contract with Oxford to provide services to specific Oxford Members (i.e., Freedom, Liberty networks). UnitedHealth Choice Plus network providers located outside of the tri-state area (CT, NJ, and NY) may be considered in-network. Check the member specific benefit plan document for eligibility.

**Surgeon:** For the purposes of this policy, a Surgeon is any Surgeon that is performing a surgical procedure regardless of the provider specialty (general Surgeon, orthopedic Surgeon, etc.).

Note: This policy does not apply in emergent situations.

## Policy

Participating Surgeons located in New York (NY) that are performing non-emergent procedures with an Assistant Surgeon or Co-Surgeon must use an Oxford participating Assistant Surgeon or Co-Surgeon unless:

- The member explicitly agrees pre-service (no more than 90 days before the scheduled date of the procedure) to receive services from a Non-Participating Assistant Surgeon/Co-Surgeon by signing the [Non-Participating Provider Consent Form](#) and understands that the use of this provider will be:
  - Out-of-Network: For members with out-of-network benefits, Non-Participating Assistant Surgeon/Co-Surgeon claims will be paid at the out-of-network benefit level. Out-of-network cost shares and deductibles will apply.
  - Denied: For members without out-of-network benefits, Non-Participating Assistant Surgeon/Co-Surgeon claims will be denied as not covered because the member has no coverage for services provided by non-participating providers. Members will therefore be responsible for the entire cost of the service.
- or
- An In-Network Exception has been approved.

## Procedures and Responsibilities

### Participating Surgeons located in NY Using Non-Participating Assistant Surgeons and Co-Surgeons

The following procedures and responsibilities apply in non-emergent situations when the services are provided by a participating Surgeon:

- Services performed by a Participating Surgeon with an Assistant Surgeon/Co-Surgeon, must be performed in conjunction with an Assistant Surgeon/Co-Surgeon who is participating with the Oxford network; or
- If the Participating Surgeon intends to utilize an Assistant Surgeon/Co-surgeon that does not participate in the Oxford network, the provider is required to:
  - Verbally discuss options and financial impact with the Member
    - The Participating Surgeon must review this policy and the [Non-Participating Provider Consent Form](#) with the Member.
      - The discussion must explain Participating and Non-Participating Assistant Surgeon or Co-Surgeon alternatives and provide the Member with an understanding of all the providers involved in the Member's care.
      - The discussion must include a conversation explaining the financial impact of using a Non-Participating Assistant Surgeon or Co-Surgeon.
      - A copy of the [Non-Participating Provider Consent Form](#) must be provided to the Member.
    - The discussion must occur no more than 90 days, and no less than 14 days before, the scheduled date of the procedure.
    - If the Member does not sign the form at the end of the discussion, explain that it needs to be completed and returned no less than 14 days before the scheduled date of the procedure.
    - The discussion must then be noted in the Member's medical record.
  - Obtain a completed [Non-Participating Provider Consent Form](#)
    - The member will need to agree or disagree to receive surgical services from a Non-Participating Assistant Surgeon or Co-Surgeon by marking the appropriate box on the [Non-Participating Provider Consent Form](#). The member must then sign and date the form and return the form to the Participating Surgeon no less than 14 days before the scheduled date of the procedure. If the Member:
      - Does not agree to the use of a Non-Participating Assistant Surgeon or Co-Surgeon: Following the discussion, if the Participating Surgeon:
        - Is unable to locate a Participating Assistant Surgeon or Co-Surgeon, they must contact the health plan for assistance in locating a Participating Assistant Surgeon or Co-Surgeon.
        - Still wants to recommend the Non-Participating Assistant Surgeon or Co-Surgeon, they must contact Oxford to request and initiate an In-Network Exception request.
      - Does agree to the use of a Non-Participating Assistant Surgeon or Co-Surgeon: The Participating Provider must ensure that the Member understands the financial obligations of using a Non-Participating IONM Provider.
        - For Members with out-of-network benefits: Non-Participating Assistant Surgeon or Co-Surgeon will be paid at the out-of-network benefit level. Out-of-network cost shares and deductibles will apply. In addition,

- Members may be responsible to the Non-Participating Assistant Surgeon or Co-Surgeon for any amount above the amount paid by the health plan, as determined by the Member’s out-of-network benefit; or
  - For Members with only in-network benefits: Non-Participating Assistant Surgeon or Co-Surgeon claims will be denied because the Member has no coverage for services provided by Non-Participating Providers. Members will therefore be responsible for the entire cost of the service(s).
- The Participating Provider must then sign and date the form to acknowledge the Member’s decision.
- The Non-Participating Provider Consent Form must be kept on file by the Participating Provider.
- A separate Non-Participating Provider Consent Form is required for every service when the Participating Surgeon wants to refer to or involve a Non-Participating Assistant Surgeon or Co-Surgeon’s in a member’s care.
- The Non-Participating Provider Consent Form will only be valid for 90 days from the date of member signature.
- Oxford may request a copy of the completed [Non-Participating Provider Consent Form](#) from the Participating Surgeon (who is required to keep the form on file) in order to conduct standard business.
  - When requested, the Participating Surgeon must provide a copy of the [Non-Participating Provider Consent Form](#) within 15 days of the request.
  - If a copy of the completed [Non-Participating Provider Consent Form](#) is not received within 15 days of the request, the Participating Surgeon’s claim will be denied administratively for failure to comply with this protocol.
  - In these instances, the Participating Surgeon is prohibited from balance billing the Member.
  - Any payment previously made for the surgical service will be subject to recovery. The Participating Surgeon cannot balance bill the member for claims denied for administrative reasons.

## In-Network Exception Requests

If requesting an In-Network Exception to have a Non-Participating Assistant Surgeon/Co-Surgeon covered as if they were participating with the Oxford network, the Participating Surgeon must make the exception request. The exception request will not be accepted from the Non-Participating Assistant Surgeon/Co-Surgeon.

- The Participating Surgeon must make the In-Network Exception request no less than 14 days in advance of the scheduled procedure in order to avoid delays in care and alleviate potential complications with the patient’s required preparations for the procedure.
- If the Participating Surgeon requests an In-Network Exception less than 14 days in advance of the scheduled procedure, the In-Network Exception request will be processed per Oxford’s standard guidelines, however the Participating Surgeon will receive an administrative denial for their claim for failure to follow protocol.

## Participating Surgeons

When a Participating Surgeon performs non-emergent services using a Participating Assistant Surgeon/Co-Surgeon, there will be no additional requirements to fulfill. A Non-Participating Provider Consent Form is not required.

## Non-Compliance with this Policy

Providers are required to keep a signed copy of the [Non-Participating Provider Consent Form](#) on file. Oxford may request a copy of the signed [Non-Participating Provider Consent Form](#) at any time, including when responding to a member appeal. Providers are not required to submit this form with their initial claim.

If the Participating Surgeon cannot provide the signed [Non-Participating Provider Consent Form](#), within 15 days of the request, as proof that they discussed the member’s options for selecting a Participating or Non-Participating Assistant Surgeon/Co-Surgeon in advance of the service, Oxford will administratively deny the Participating Surgeons claim. Any payment previously made for the Surgeons service will be subject to recovery. The Participating Surgeon cannot balance bill the member for claims denied for administrative reasons.

## Policy History/Revision Information

Date	Summary of Changes
02/01/2023	<ul style="list-style-type: none"> <li>• Removed reference link to the Administrative Policy titled <i>In-Network Exceptions for Breast Reconstruction Surgery Following Mastectomy</i></li> </ul>

Date	Summary of Changes
10/01/2022	<ul style="list-style-type: none"> <li data-bbox="324 128 1534 163">• Routine review; no change to guidelines</li> <li data-bbox="324 163 1534 201">• Archived previous policy version ADMINISTRATIVE 266.2 T0</li> </ul>

## Instructions for Use

The services described in Oxford policies are subject to the terms, conditions and limitations of the member's contract or certificate. Oxford reserves the right, in its sole discretion, to modify policies as necessary without prior written notice unless otherwise required by Oxford's administrative procedures or applicable state law. The term Oxford includes Oxford Health Plans, LLC and all of its subsidiaries as appropriate for these policies.

Certain policies may not be applicable to Self-Funded members and certain insured products. Refer to the member specific benefit plan document or Certificate of Coverage to determine whether coverage is provided or if there are any exclusions or benefit limitations applicable to any of these policies. If there is a difference between any policy and the member specific benefit plan document or Certificate of Coverage, the member specific benefit plan document or Certificate of Coverage will govern.