

## Report on Medicare Compliance Volume 27, Number 42. December 03, 2018 News Briefs

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By Nina Youngstrom

◆ CMS may issue subregulatory guidance in early 2019 that loosens up restrictions on provider-based departments sharing space with freestanding clinics as long as patient safety and quality of care are not at stake, says attorney Katie Ilten, who said a CMS official revealed CMS's plans in a Nov. 27 webinar sponsored by the American Health Lawyers Association. The CMS official said in the webinar that there may be situations where the agency would not consider shared space, including hallways, waiting rooms and bathrooms, a violation of provider-based requirements (42 CFR 413.53). CMS has long taken a dim view of comingled space (RMC 5/19/14, p. 1) and has recouped payments from hospitals because of it. "The possibility of relaxing the prohibition is a positive for flexibility in arrangements. It's also more consistent with the [provider-based] rule, which doesn't expressly prohibit space sharing," says Ilten, with Fredrikson & Bryon in Minneapolis. Allowing co-location "is better for patients and providers." Contact Ilten at [kilten@fredlaw.com](mailto:kilten@fredlaw.com).

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