



February 12, 2018

Senate Committee on Health and Welfare
Attn: Chairwoman Sen. Claire Ayer
Room 17
115 State Street
Montpelier, VT

Re: Testimony in Opposition to SB 278 – An act relating to the regulation of ambulatory surgery centers

Dear Chairwoman Ayer, Vice Chairwoman Lyons, and the esteemed members of the Senate Committee on Health and Welfare:

On behalf of the Ambulatory Surgery Center Association (ASCA), representing the interests of over 5,600 Medicare certified ambulatory surgical centers (ASCs), including one in Vermont, we respectfully write in opposition for SB 278, *An act relating to the regulation of ambulatory surgery centers*. Additionally, we would like to work with the Committee to amend the measure to ensure that Vermont patients continue to have access to high-quality, cost effective care.

By way of background, ASCs are safe, high quality surgical facilities that offer patients a convenient and cost-efficient site of surgical care. Nationally, ASCs save Medicare \$2.6 billion each year by providing the same care that hospitals provide but in a lower cost setting. Vermont's only ASC saved Medicare \$1.1 million on cataract procedures. ASCs have transformed the outpatient experience for patients by offering convenient, personalized, lower-priced alternatives to hospitals for procedures such as cataract surgery, endoscopies, colonoscopies and orthopedic surgery.

Many of the provisions outlined in SB 278 are more limiting than federal regulations. We believe, should SB 278 pass as written, Vermont would become the most restrictive state for ASCs in the entire country. ASCs are regulated by many federal agencies. In order to participate in the Medicare program, ASCs are required to meet certain conditions set by the federal government to ensure that the facility is operated in a manner that assures the safety of patients and the quality of services.

ASCs are also required to maintain a strict sanitary environment; every ASC must establish and maintain programs and procedures for preventing infections. Similarly, ASCs must conduct regular, comprehensive assessments of the quality of care they provide to their patients and provide that information to Centers for Medicare & Medicaid Services (CMS) Ambulatory Surgical Center Quality Reporting Program (ASCQR). In fact, in 2010, ASCA's member ASCs voluntarily sought and won approval of a plan to begin collecting and reporting their patient



data to the CMS Ambulatory Surgical Center Quality Reporting Program ASCQR. ASCs advocated for this national quality reporting program to objectively and transparently demonstrate to patients and payers alike that ASCs are delivering high-quality health care, on par with other health care settings. Virtually every Medicare-certified ASC in the country participates in the program, with participation reaching 96.9 percent.¹

In many states, ASCs must meet specific requirements and obtain a state license. To obtain Medicare certification, and usually to obtain a state license, an ASC must have an inspection conducted by a state official or a representative of an organization that the government has authorized to conduct that inspection. These inspectors visit the ASC to verify that it meets established standards. We are concerned the precedent Vermont would set by mandating one accrediting body over another. There are five CMS-approved accrediting organizations. We respectfully urge the committee to reconsider forcing Vermont ASCs to only work with one accrediting body. ASCA encourages members and non-members alike to research all accrediting bodies to select the best fit for their facility.²

Additionally, ASCA has some concerns regarding the requirements SB 278 would place on surgeons and facilities. ASCs do not function like hospitals, and surgeons select their patients based on strict criteria. ASCs are required to maintain complete, comprehensive and accurate medical records that include a medical history and physical examination relevant to the reason for the surgery and the type of anesthesia planned. In addition, a physician must examine the patient immediately before surgery to evaluate the risk of anesthesia and the procedure to be performed. Not every patient is a candidate for a procedure at an ASC.

Prior to discharge each patient must be evaluated by a physician to ensure it is safe for the patient to leave the facility. To further protect patient safety, ASCs are also required to have an effective means of transferring patients to a hospital in the event of an emergency. Written guidelines outlining arrangements for ambulance services and transfer of medical information are mandatory. An ASC must have a written transfer agreement with a local hospital, or all physicians performing surgery in the ASC must have admitting privileges at the designated hospital. Although these safeguards are in place, hospital admissions due to complications following ambulatory surgery are rare.³

Ambulatory surgery centers are small businesses that contribute to the state and local economy and unlike other non-profit providers, pay sales and property taxes. The establishment of a provider tax and the high licensing fees contained in this bill will make it increasingly difficult for ASCs to open in the state and provide a cost-effective option for patients. ASCs generate savings because they run lean operations and keep administrative overhead down. The

¹ <http://www.advancingsurgicalcare.com/safetyquality/ascqualityreporting>

² <https://www.ascassociation.org/aboutus/relatedorganizations/accreditationorganizations>

³ <http://www.advancingsurgicalcare.com/safetyquality/federalrequirementsgoverningasc>



imposition of the provider taxes on ASCs, as is proposed in SB 278, will threaten their continued economic viability and could lead to higher health care costs for Vermont taxpayers.

In conclusion, ASCs have transformed the outpatient experience for millions of Americans by providing them with a more convenient alternative to hospital-based outpatient procedures—and done so with a strong track record of quality care and positive patient outcomes. ASCs offer patients high-quality, cost effective care and many of the provisions outlined in SB 278 will do irreparable harm to any ASC in Vermont. ASCA appreciates the Committee’s time and would be more than happy to work with the Committee on SB 278 and on any matters pertaining to ASCs.

Regards,

William Prentice
Chief Executive Officer
Ambulatory Surgery Center Association