



THE CONNECTICUT ASSOCIATION OF AMBULATORY SURGERY CENTERS' TESTIMONY ON DRAFT CERTIFICATE OF NEED RECOMMENDATIONS

The Connecticut Association of Ambulatory Surgery Centers (“CAASC” or “Association”) appreciates this opportunity to comment on the draft Certificate of Need (“CON”) recommendations that have been issued by the CON Task Force. We also wish to thank its members for the collaborative manner in which they are addressing this important aspect of health care regulation. The CAASC has had the privilege of working with the Connecticut Department of Public Health and other constituent groups on similar issues in the past, and we truly believe that open dialog is the best way to bring about positive change.

The members of our Association, which are defined under state statute as “outpatient surgical facilities”, are proud to add to the fabric of the diverse health care delivery system in Connecticut by providing a high quality, lower cost alternative for same-day surgery and other procedures. In this rapidly changing and uncertain time for health care as a whole, Ambulatory Surgery Centers (“ASCs”) remain committed to improving the experience of care for our patients as technological improvements and the need to control health spending shift increasingly more services to the outpatient setting.

While our industry can cite data which, for example, shows that the Medicare program and its beneficiaries share in more than \$2.3 billion in savings each year when procedures are performed at ASCs as opposed to other outpatient surgical facilities such as hospital outpatient departments (“HOPDs”), it is important to point out that this is accomplished, in significant part, by the lower reimbursement paid to our facilities. Like other providers, we too are feeling constant downward pressure as we struggle to reconcile what we are paid from government-sponsored and private insurance plans, and the continually escalating costs associated with meeting consumer expectations, maintaining regulatory compliance, staffing, training and other operational expenses. Like acute care hospitals, ASCs in Connecticut also pay a significant provider tax, but unlike non-profit hospitals, our members also pay real estate, personal property and sales taxes as well.

It is through this perspective – as vital components of the modern-day delivery system that are also dealing with its challenges – that we offer our comments on the recommendations most directly affecting ASCs.

With respect to the recommendations concerning initiating services, we do not think rolling back CON to cover only the establishment of new hospitals, specialty hospitals and freestanding EDs

is the right path to take for ensuring that a high quality and stable health system is in place for Connecticut residents. Therefore, we would favor an approach that would subject not only those facilities to CON review, but maintain CON oversight for establishing new outpatient surgical facilities and the other key providers categories listed in Option 3 of the draft recommendations in this area. However, we do favor eliminating the CON requirement for adding two or more new operating rooms, to an existing facility, within a 3-year period as we think that this determination should ultimately be decided by patient choice and left to the purview of the individual providers who incur the financial risk of increasing their capacity in this manner.

As for continuing to require CON review for the termination of services at outpatient surgical facilities, this has not been a source of significant regulatory activity since the CON laws were amended a few years ago to include this provision. Accordingly, we see no reason why a more streamlined approach dispensing with this requirement should not be adopted. As for relocation of services or facilities, we favor adopting “notification only” requirements for relocations that occur within a reasonable geographic distance from the current location. The CAASC would also favor the same sort of notice only requirement for relocations to areas of unmet need that is determined through the state planning process.

With respect to the recommendations for transfers of ownership, we believe that CON regulation in this area is unnecessarily confusing and burdensome, so we do not support maintaining the status quo. If the Task Force is going to pursue Option 2 of the proposed recommendations in this area, the CAASC would favor changes that would clarify that notification to the Office of Health Care Access and possible CON approval for transfers of ownership in outpatient surgical facilities should only be required where a “change of control” as commonly defined (i.e., any change of ownership of more than 50% of the voting capital stock or interests changes hands) takes place. Transfers of minority interests in outpatient surgical facilities should be exempt from this requirement. Additionally, we also support expedited review of transfers of ownership in existing facilities.

The CAASC would not favor mechanisms that would allow intervenors to appeal a CON decision for many reasons, including that it could add years to an already prolonged regulatory process. As for the other proposed recommendations regarding CON application review criteria and the decision-making process, we stand ready to work with Task Force members to make improvements and achieve efficiencies in these areas as well.

Thank you again for this opportunity to address the draft Task Force recommendations.