Testimony in Support of Senate Bill 2334

The North Dakota Department of Health currently defines an Ambulatory Surgery Center (ASC) as any distinct entity that operates for the purpose of providing surgical services to patients not requiring hospitalization and the expected duration of services do not exceed 24 hours following an admission. An ASC must have a CMS agreement to participate in Medicare and meet the CMS "Conditions for Coverage".

Of the approximate 57 million surgical procedures performed annually in the U.S. nearly 23 million are performed in ASC settings and 11.5 million performed in Hospital Out Patient Departments (HOPD). There are over 6,000 ASCs in the U.S. and around 13 in North Dakota. The trends over the last 15 years have been for more surgical procedures to migrate into outpatient settings and more from HOPDs to ASCs. Surgical procedures shifting to ASC settings has been driven by the higher patient satisfaction, lower overall complication rates, greater efficiency, and increased perceived value of a procedure performed in an ASC compared to a HOPD. Value is determined by dividing quality by cost. The ASC procedure value is a result of CMS reimbursement rates for the same procedure performed in an ASC that is independent from a hospital to be around 59% of the rate for the same procedure performed in an HOPD. These rates are determined by standardized CMS criteria on an annual basis.

ASCs in North Dakota are disadvantaged with the NDHD rule that a patient must be discharged from the facility within 24 hours of admission. Having the capability to provide care to postsurgical patients for a more extended time would improve patient care and allow an ASC to fulfill its responsibility to adequately manage nonlife-threatening postoperative complications. Serious major postoperative complications that occur at an ASC are currently managed via transferring the patient to a local hospital. Hospital transfers of patients from ASCs are reportable events to CMS, and if frequent might lead an ASC license suspension or revocation. ASCs desire to stringently avoid all transfers of care. Consequently, ASCs have policies regarding preoperative evaluation of patients via a current medical exam within 30 days of surgery and exclusion of patients with medical conditions that have a likelihood of needing a higher level of postoperative care provided only in a hospital. This would include ICU monitoring, prolonged ventilatory support, cardiology, pulmonary, or respiratory care, or advanced imaging such as CT or MRI scans.

However, there are minor postoperative complications which might occur such as postoperative bleeding, prolonged nausea, uncontrolled postoperative pain, or urinary retention which may take longer than 24 hours to resolve, but could be adequately managed with the staffing, equipment, and materials in an ASC, and avoid a transfer to a local hospital. Such a transfer disrupts the patient's relationship with the surgical staff, anesthesia, and ASC facility, and entails additional costs of ambulance transfer and hospital charges for this additional care. The obligation and responsibility for an ASC to care for a patient until they are safe for discharge home is disrupted by the arbitrary 24-hour constraint. Extending the allowed length of stay to 48 hours would allow an ASC to provide better care to patients and avoid some expensive hospital transfers. It would be expected that ASC patient stays over 24 hours would be infrequent, as an ASC would utilize greater staff and supply resources for more extended care, without any increase in financial reimbursement. ASCs desire to fulfill their patient responsibilities when

they have the resources available. ASCs would prefer to not burden a hospital for a postoperative problem that might only require a bit more time to resolve.

In summary, Senate Bill 2334 would be beneficial for the business community and surgical health care in North Dakota for the following reasons…

- Allow ASCs to complete postoperative complication management within their expertise and facility resources without an arbitrary time constraint.

- Allow an ASC to fulfill its' responsibility for patient care till discharge home.

- Avoid unnecessary hospital transfers, particularly when patients frequently want to avoid a hospital setting. (This has been particularly relevant during the current Corona virus pandemic.)

- To enhance the current and future health care value of ASC procedures for health insurers, employers, patients and their families.

Respectively submitted on Monday, February 1st, 2021

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