

**Testimony of  
Joseph Engel  
On Behalf of  
The Connecticut Association of Ambulatory Surgery Centers  
Before the Public Health Committee on  
H.B. No. 5902 (Raised) An Act Concerning Hospital Staffing And Patient  
Access To Deep Sedation And General Anesthesia.**

*March 12, 2008*

Good afternoon, Rep. Sayers, Sen. Handley and distinguished members of the Public Health Committee. I am Joseph Engel, the Legislative Chair of the Connecticut Association of Ambulatory Surgery Centers and the Administrative Director of the Endoscopy Center of Fairfield. I am here today to address a provision included in HB 5902 which is meant to resolve a situation we are having with some payors-known as the site of service differential.

A "site of service differential" is a payment policy which varies the payment based on where the service is provided.

About a year and a half ago we were notified by an insurer that they would begin paying less for certain procedures performed in licensed facilities such as Hospitals or Ambulatory Surgery Centers than for the same procedures when performed in the physician's office.

This insurer felt that procedures like colonoscopies and endoscopies should be done in the office setting-rather than the ASC as evidenced by their reimbursement strategy.

Their scheme was to provide a financial incentive for physicians to perform these procedures in the office and not in licensed facilities.

Unfortunately, because these procedures require moderate to deep sedation or anesthesia – Connecticut State Statute requires that they must be performed in a licensed ASC or hospital setting.

When this notification was received, we met with the then Insurance Commissioner to address the unilateral policy recently implemented by this managed care company. Our experience was that, in this case, this insurer completely disregarded the fact that, in the interest of public safety this General Assembly had passed a law which gave providers no choice but to perform these procedures in a licensed ASC or hospital.

Physicians who had been performing procedures in the hospital or ASC setting were suddenly paid less for the same work with no option in this state to be paid at the usual and supposedly still available rate.

We continue to have little or no recourse in addressing this sort of unilateral payment policy change. And, when meeting with the insurer at the Department of Insurance there was no acknowledgement of the existence of the statute or its impact on their policy. In fact, the level of anesthesia used in many procedures in Connecticut has triggered the need for physician offices in which procedures had been performed to become licensed as ASC's which means going through the Certificate of Need process and ensuring that certain safety standards and accreditations are met. This can be a lengthy and costly process but it significantly increases the level of safety for patients in Connecticut and places us in a leadership role in this regard.

For example, statistics are often cited from a detailed study of procedures published in 2003 in the Archives of Surgery which concluded that:

“In this review of surgical procedures performed in offices and ambulatory surgery centers in Florida during a recent 2-year period, there was an approximate ten-fold increased risk of adverse incidents and death in the office setting. If all office procedures had been performed in ambulatory surgery centers, approximately 43 injuries and six deaths per year could have been prevented.”

This body has addressed the patient safety concerns with office-based surgery and now expects that procedures like colonoscopies will be done in the ASC or hospital setting. Insurers have mocked this safety initiative by using it as a means of reducing costs and increasing profits. As premiums continue to rise, and managed care company profits increase this is the kind of unilateral payment strategy that has been invoked.

The bill before you seeks to address this situation by ensuring access to anesthesia services. Patients currently have that access, but the providers are being penalized by some insurers. I urge you to modify the bill before you to prevent insurers from financially penalizing providers for complying with Connecticut State Statutes.

I am certain this was not your intent when passing patient safety legislation that moved procedures out of the physician office. I hope you can help to rectify this situation and ensure that patients continue to have access to services in the appropriate setting.

Thank you for your consideration.