

Testimony of Ken Rosenquest
President of the Connecticut Association of Ambulatory Surgery Centers
Before the Public Health Committee

On

H.B. No. 6538, AN ACT CONCERNING THE COLLECTION AND RELEASE OF DATA BY
THE OFFICE OF HEALTH CARE ACCESS.

February 27, 2009

Good morning Senator Harris, Representative Ritter and distinguished members of the Public Health Committee. My name is Ken Rosenquest and I am here today as the President of the Surgery Center Association to speak in opposition to H.B. No. 6538, AN ACT CONCERNING THE COLLECTION AND RELEASE OF DATA BY THE OFFICE OF HEALTH CARE ACCESS. By way of background, our association is comprised of more than 40 surgery centers from across the state-single and multi-specialty, stand alone and hospital affiliated facilities.

While we support the concept of gathering data to look at issues of quality and safety, it is unclear what the intent and purpose of this bill really is. As drafted, it gives the Commissioner of the Office of Health Care Access incredibly broad authority with little or no direction or oversight. At the same time, it allows for the release of patient identifiable data in certain circumstances. We are talking about diagnosis information and procedures that would be directly tied to an individual patient. In light of HIPA requirements and patient confidentiality concerns, the recent security breaches of individual information from DRS and other agencies, make us very uncomfortable with this aspect of the bill. The possibility of gaining access to a database like this and specific patient identifiable data being obtained is a real concern. Creating a committee to review this aspect of the legislation is fine, except that there is no regulatory

oversight, liability exemptions and protections to address patient concerns. Not to mention that there is no representation from the ASC community on the committee.

Another area of concern centers on OHCA's planned use for this extensive database. Certainly, information is gathered during the current Certificate of Need approval process and used by OHCA in the review of applications. Under its current statutory authority, OHCA is clearly able to meet its statutory responsibilities without this added burden. The extensive database that will be created under this proposal; however, does not have an explained purpose identified in the bill. From a pure business perspective, this creates significant concerns as information may become available that is directly related to the successful business models created by individual centers.

Specifics on how the data will be gathered is yet another source of concern. Over the last few years, OHCA has required 11 facilities to provide patient level data as a requirement of their CON approval. Several facilities invested in software to meet the specific data requests by the agency. Others designated staff (nurses, etc.) to physically keep the tallies on a clip board-a very labor intensive undertaking. Compliance with this request was necessary because of the inability to reject the requirement, or the CON would not be approved. Just recently, a letter was sent out by OHCA withdrawing the requirement that the facilities provide the extensive data identified in their CON approvals. Unfortunately, the facilities had already incurred the added expense. Even a change in ownership necessitated the new data requirement from an existing facility without the resources to install new software technology. In some instances, the

expense has been established at \$100,000.00. In this economy, it is not an expense that many of these facilities are able to accommodate.

With OHCA deciding to eliminate the regular data submissions from these facilities, we are concerned that other changes will occur that will require added expense. In some circumstances, we are talking about small physician run facilities, and in other instances we are describing multi-specialty hospital affiliated centers, neither of which have IT departments or staffing trained to deal with data initiatives of this magnitude.

Something to consider; however, is the advent of the Electronic Medical Record, and the Federal governments push to include funding for this kind of technology in health reform initiatives. With the widespread distribution of the EMR, the kind of initiative we are discussing here will be easier to accomplish and more secure.

Finally, I would like to reiterate our commitment to developing a data gathering program that meets the needs of the state while balancing the concerns of the ambulatory surgery centers. We were enthusiastic about participating in OHCA's working group to develop an outpatient data initiative last year. Unfortunately, many of our suggestions and concerns were not addressed by the effort, although many of our facilities made significant attempts to comply. In fact, OHCA developed a lengthy data gathering document which was retroactive in nature and almost destined for failure because the facilities did not have the software technology to gather the identified data points in a retroactive manner-back to 2007. We even brought representatives from one of the facility's software companies to a meeting to listen to the goals of the department so that changes could be made to the software system in place at that facility.

Unfortunately, these representatives felt it was impossible to meet the needs of OHCA with the current system. In the end, 46 facilities responded to the survey in some manner and the department felt the data was not usable. We have made suggestions about areas that we could study in a prospective fashion and opportunities to develop specific projects using the patient safety organization which is a statutory requirement created by this body. None of these approaches has been welcomed by OHCA.

We want to be part of the solution. Many of the administrators and staff bring a great deal of experience and expertise to the table. It is unfortunate, that at this point, the bill before you does not take into account any of the suggestions we have made or the economic concerns we have identified. In the current economy, does it really make sense to overburden a sector of the health care community that is already stretched to the limit by increased costs and declining reimbursements? Shouldn't we be working together to find solutions that meet all of our needs? Thank you for your consideration.