Testimony of the  
Connecticut Association of Ambulatory Surgery Centers  
Before the Public Health Committee  
On  
SB 316, An Act Prohibiting Health Care Providers from Referring Patients to Certain  
Health Care Facilities.  

February 17, 2017

Good Afternoon Senator Gerratana, Senator Somers, Representative Steinberg and distinguished members of the Public Health Committee; for the record, my name is Ken Rosenquest and I am the president of the Connecticut Association of Ambulatory Surgery Centers representing all 61 of the state’s free-standing, community based surgery centers in the state. I also serve as a facility administrator here in Connecticut, so I have first hand experience managing within the current regulatory framework.

Anti-self referral provisions, like those contemplated in SB 316, are meant to protect patients from abuse as a result of the unwarranted utilization of health care services. In fact, “the Stark Law” was passed at the federal level and already exists to address these very concerns. Stark is meant to ensure that referrals to health services like physical therapy, radiology, clinical labs, and others, are done appropriately and within its framework.
For ASCs, federal Anti-kickback statutes already exist and prohibit any person from “knowingly and willfully” providing any remuneration to induce referrals, or in exchange for referrals. There is a specific “safe harbor” for ASCs under the Anti-kickback Statute, to allow for various types of physician-owned ASCs as well as hospital/physician ASC joint ventures. Essentially, the Office of the Inspector General recognized the benefits of surgery centers and identified them as an extension of the physician practice.

The Medicare Payment Advisory Commission (MedPAC) has also endorsed this notion in recognition that ASCs can improve efficiencies and lower costs for that government program. The federal Anti-kickback Statute safe harbor requires that patients who are referred to an ASC by a physician investor in the ASC be fully informed of the physician's ownership interests.

As you consider these facts, it is important to understand that surgery centers are already the lower cost providers of health care in Connecticut, saving residents millions in lower co-payments, deductibles and co-insurance rates.

As drafted, the bill before you today could jeopardize the ability of physicians to treat their patients in the state's surgery centers. This would have a devastatingly disruptive influence on the entire health care provider network in the state, would force the closure of many ASCs, and would, in very little time, cause severe, adverse health consequences for the state’s residents. One clear example is that of screening colonoscopy. Patient access to this preventive service has clearly led to a decline in colon cancer rates. This procedure is
done safely and appropriately in Connecticut’s surgery centers at a fraction of the cost of other settings. According to the National Surgery Center Association, data from 2014 shows that Connecticut patients saved more than $6.4 million by electing to have their colonoscopies in ASCs.

Performing procedures in ASCs allow doctors to exercise greater control over the surgical experience than in a hospital setting—because they focus on a specialized group of surgical procedures, thereby reducing costs, improving outcomes, and achieving efficient care solutions. Isn’t that our health policy goal?

I recognize that early drafts of bills can sometime be overly broad and therefore I am hopeful that it is not the intent of the bill before you today to deny access to ASCs to the state’s patient population. We stand ready to work with you in revising SB 316 such that it still allows for the continued, appropriate referral of surgical services to the state’s ASCs. Thank you for your consideration and I would be happy to answer any questions.