

**TESTIMONY
OF
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PRESIDENT & CEO
NEW MILFORD HOSPITAL, INC.
PUBLIC HEALTH COMMITTEE
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HB 5531, An Act Concerning Regulation of Outpatient Surgical Facilities

My name is Richard E. Pugh. I am President and Chief Executive Officer of New Milford Hospital in New Milford, Connecticut. I appreciate the opportunity to provide testimony on **HB 5531, An Act Concerning Regulation of Outpatient Surgical Facilities**, which I support. HB 5531 would require outpatient surgical facilities using specified levels of sedation or anesthesia to obtain a license from the Department of Public Health (DPH) and a Certificate of Need (CON) from the Office of Health Care Access (OHCA).

As you know, all acute care hospitals in Connecticut are licensed by DPH. In addition to oversight by DPH, hospitals are regulated by OHCA and must obtain a CON for any new functions or services or for major capital expenditures, including those related to outpatient surgery performed in the hospital or in any affiliated outpatient surgical facility.

Entities that are not hospitals, but which provide the same surgical services as hospitals, should be subject to the same level of quality and regulatory oversight as hospitals. DPH and OHCA, in their respective regulatory roles, each play a critical part in healthcare access, health system planning, and quality oversight in Connecticut. Patients who undergo surgery in an outpatient setting with use of moderate or deep sedation or anesthesia have the right to know that their surgery will take place in a properly equipped surgical facility that has been licensed by DPH and approved by OHCA, regardless of where it is, who owns it, or how it is structured. HB 5531 would permanently accomplish this by correcting the present situation that allows certain outpatient surgical facilities to escape the rigorous level of quality and regulatory oversight that applies to hospital-owned surgical facilities.

The bill also would permanently assist in addressing the unfair economic environment that differing levels of regulation produce. The outpatient surgical facilities that could presently avoid DPH licensure and OHCA approval after the expiration of the one year moratorium enacted last year would be able to avoid the costs and resource commitments associated with the increased level of regulation of surgical services that hospitals face. In addition, while hospitals serve patients regardless of their payor source or ability to pay, many non-hospital surgical facilities do not do so.

The passage of this bill is important to New Milford Hospital and all hospitals. In this State, there are Certificate of Need laws and regulations that must be enforced by a State government agency (OHCA). The general purpose of these laws is to ensure that new programs and services demonstrate they are meeting a real need and are not an unnecessary duplication of existing services. These laws are aimed at promoting efficiencies within the system, ensuring health care quality, cost effectiveness, and preserving the strength of existing programs such as hospitals, to continue to meet current and new patient demand. This helps assure that physicians in the area may continue to practice and maintain their expertise within a quality system and prevents a proliferation of services that

can dilute and make vulnerable the hub of the patient care delivery system within a given area. Hospitals are subject to these same laws. Often when an unregulated One Day Surgery Center is opened, it contributes to the following impact on a 24/7 full service hospital:

- 1) Net revenue loss of One Day Surgery patients.
- 2) Competition for Operating Room Nurses and Anesthesiologists, which dilute a hospital's surgical program.
- 3) Compromises and threatens the ability to stay competitive for professional staff.
- 4) Is a duplication of services.
- 5) Does not improve access to care.
- 6) Affects physician and all other professional recruiting of primary care and specialists if hospital appears financially vulnerable to this type of unregulated and unfair competition.
- 7) Affects the ability to stay ahead of the curve in technology if a hospital sustains operating losses due to the erosion of their revenue base.

Hospitals are the safety net for the poor and uninsured. They should not be unfairly threatened economically by competing outpatient surgery programs that do not have to meet and be reviewed by the same criteria as hospital do. All surgical facilities should be subject to equal regulatory oversight regardless of ownership, because consistent application of regulatory requirements is necessary for quality of care, patient safety and access.

The numerous physical standards and minimum code requirements and professional staffing standards that must be met for a clinical facility, and which are described in detail in the Public Health Statutes, should apply to all entities that perform surgery utilizing sedation and anesthesia. Hospitals are acutely aware of the responsibility to meet these requirements and incur the associated expenses in order to be compliant. The ability of a freestanding ambulatory surgery program to develop the same complement of services and potentially restrict its access to ensure its own financial viability poses a threat to acute care hospitals. The financial distress which could result from an out migration of patient volume in an area where there is unsubstantiated excess demand must be recognized.

For the good of all surgical patients in Connecticut, all outpatient surgical facilities that perform similar services should be subject to equal regulatory oversight. Please support HB 5531.

Thank you for your consideration of my comments.



Richard E. Pugh
President and CEO