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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2011-12

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on Health...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (October 2013)

Assembly

Record of Committee Proceedings

Committee on Health

Assembly Bill 408

Relating to: eliminating ambulatory surgical center assessment.

By Representatives Stone, Ziegelbauer, Spanbauer, Kapenga, Meyer, Endsley, Krug, Litjens and Kaufert; cosponsored by Senators Galloway, Moulton, Vukmir, Leibham, Lazich and Grothman.

December 07, 2011 Referred to Committee on Health.

February 8, 2012 **PUBLIC HEARING HELD**

Present: (10) Representatives Stone, Kaufert, Van Roy, Strachota, Petersen, Litjens, Richards, Pasch, Seidel, C. Taylor.
Absent: (0) None.
Excused: (1) Representative Severson.

Appearances For

- Jeff Stone, Greendale — Rep., Author; 82nd Assembly District
- Ronald Bullen, Waukesha — Pro Health Care Moreland Surgery Center
- Bob Kwech, Kimberly — President/ WI Surgery Center Assn
- Jill Reimer, Oshkosh — Ambulatory Surgical Ctr LLC
- Mark Smith, Waukesha — Orthopedic Associates of Wisconsin
- Bob Welch, (City Not Listed) — The Orthopaedic Surgery Center

Appearances Against

- Carol Kitzrow, Union Grove — Wisconsin Surgery Center
- Vishal Lal, Greenfield — APM Wisconsin MSO, LLC

Appearances for Information Only

- None.

Registrations For

- Pam Galloway, Wausau — Sen., Author; 29th Senate District
- Robert Flannery, Middleton — UW Medical Foundation
- Lisa Maroney, Madison — UW Health
- Mark Grapentine, Madison — WI Medical Society

- Michael Heifetz, Madison — Dean Clinic & SSM Health Care of WI

Registrations Against

- Kimberly Eccleston, Brown Deer — PMTC Surgery Center
- John Robison, Madison — Advanced Pain Management

Registrations for Information Only

- None.

March 13, 2012

EXECUTIVE SESSION HELD

Present: (10) Representatives Stone, Severson, Kaufert, Van Roy, Strachota, Litjens, Richards, Pasch, Seidel, C. Taylor.

Absent: (0) None.

Excused: (1) Representative Petersen.

Moved by Representative Severson, seconded by Representative Van Roy that **Assembly Substitute Amendment LRB 0405/2** be recommended for introduction and adoption.

Ayes: (9) Representatives Stone, Severson, Van Roy, Strachota, Litjens, Richards, Pasch, Seidel and C. Taylor.

Noes: (1) Representative Kaufert.

Absent: (1) Representative Petersen.

INTRODUCTION AND ADOPTION OF ASSEMBLY
SUBSTITUTE AMENDMENT LRB 0405/2 RECOMMENDED,
Ayes 9, Noes 1

Moved by Representative Van Roy, seconded by Representative Severson that **Assembly Bill 408** be recommended for passage as amended.

Ayes: (10) Representatives Stone, Severson, Kaufert, Van Roy, Strachota, Litjens, Richards, Pasch, Seidel, C. Taylor.

Noes: (0) None.

Absent: (1) Representative Petersen.

PASSAGE AS AMENDED RECOMMENDED, Ayes 10, Noes 0

Marsha Dake

Marsha Dake
Committee Clerk

Vote Record Committee on Health

Date: 3-13-12

Moved by: Van Roy

Seconded by: Severson

AB 408 SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

as amended

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Jeff Stone, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Erik Severson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Dean Kaufert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Karl Van Roy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Patricia Strachota	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Kevin Petersen	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Representative Michelle Litjens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jon Richards	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Sandy Pasch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Donna Seidel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Chris Taylor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>10</u>	<u>0</u>	<u>1</u>	_____

Motion Carried

Motion Failed

Vote Record Committee on Health

Date: 3-13-12

Moved by: Severson

Seconded by: Van Roy

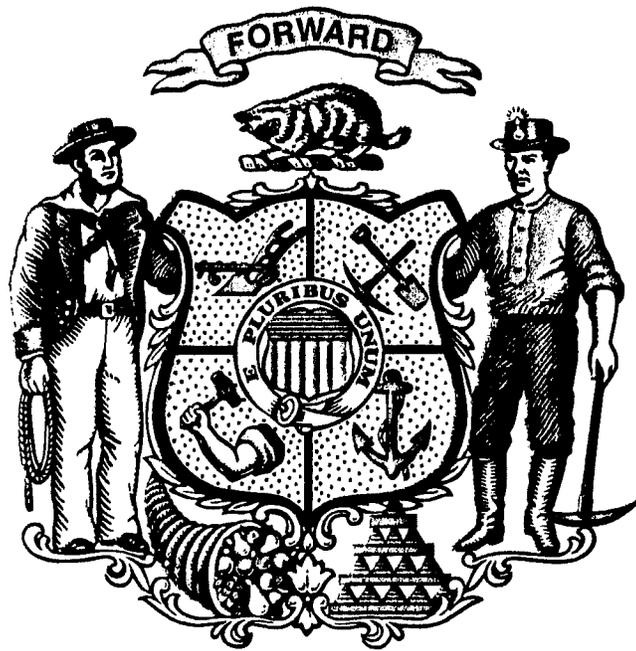
AB _____ SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt 0405/2
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:
 Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Jeff Stone, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Erik Severson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Dean Kaufert	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Karl Van Roy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Patricia Strachota	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Kevin Petersen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Michelle Litjens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jon Richards	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Sandy Pasch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Donna Seidel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Chris Taylor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>9</u>	<u>1</u>	_____	_____

Motion Carried Motion Failed





Wisconsin Medical Society

Your Doctor. Your Health.

TO: Assembly Committee on Health
Representative Jeff Stone, Chair

FROM: Mark Grapentine, JD
Senior Vice President - Government Relations

DATE: February 8, 2012

RE: Support for Assembly Bill 408

On behalf of more than 12,000 members statewide, the Wisconsin Medical Society thanks the committee for this opportunity to share our support for Assembly Bill 408, which eliminates the tax on ambulatory surgical centers (ASCs).

The Society's membership often discusses how government funds the state's Medicaid program – the Society strongly believes that our state's Medicaid program should be paid for with adequate, stable funding. Elected officials' decisions on how to fund Medicaid each biennium – including the illegal \$200 million raid on the Injured Patients and Families Compensation Fund in 2007 – has prompted numerous robust Medicaid funding debates at the Society's annual House of Delegates meetings. As elected officials have attempted various ways to fund Medicaid, the Society has endorsed the following policies:

MRC-041

Hospital Tax: The Wisconsin Medical Society believes that taxing the sick is poor public policy, and there are other ways in which health care should be financed that are more equitable. (HOD, 0410)

MRC-042

Health Care Provider Taxes:

The Wisconsin Medical Society will oppose all taxes levied specifically on physicians and non-physician clinicians. (HOD, 0411)

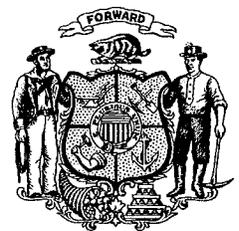
The ASC tax, created as part of the state's 2009-11 biennial budget, seems to run counter to these policies, which hold the underlying principle that the funding of the state's health care programs for our sickest and poorest citizens is a universal responsibility to be borne by all of Wisconsin – not select industries, entities or professions.

A recent Legislative Fiscal Bureau memo on the ASC tax also reveals the disparate “winners and losers” nature of such a targeted tax scheme, where some ASCs end up paying more in new taxes than what they gain in increased MA reimbursement: of the 58 ASCs paying the tax in 2009-10, just 25 were “winners” while 33 were “losers.” If the original reasoning for the assessment was that a majority of ASCs would benefit from the tax, evidence shows otherwise. We support the repeal of this tax.

Thank you for this opportunity to share the Society's policy on this issue. If you have further questions, please feel free to contact the Society at any time.



WISCONSIN STATE LEGISLATURE





February 8, 2012

TO: Representative Jeff Stone, Chair, Assembly Committee on Health
Members of the Assembly Committee on Health

From: LoAnn Vande Leest, Administrator, The Surgery Center, LLC, Franklin, WI and Past
President of the Ambulatory Surgery Center Association of Wisconsin

Re: Support for Assembly Bill 408

Chairman Stone and member of the Assembly Committee on Health. Thank you for the opportunity to provide written testimony today on Assembly Bill 408. My name is LoAnn Vande Leest and I am Administrator for one of Wisconsin's largest ambulatory surgery centers, The Surgery Center, LLC in Franklin. I am writing today to voice support for Assembly Bill 408.

As we discussed during your two past visits to our surgery center, Representative Stone, an ASC is a high quality provider of care for those who need surgical procedures that do not require hospitalization. Our standards of care are high, matching those of hospital surgery units. We are the consummate patient advocates, providing careful screening of our patients to assure that we are not putting them at risk by accepting those who are not good candidates for the ambulatory surgery center arena.

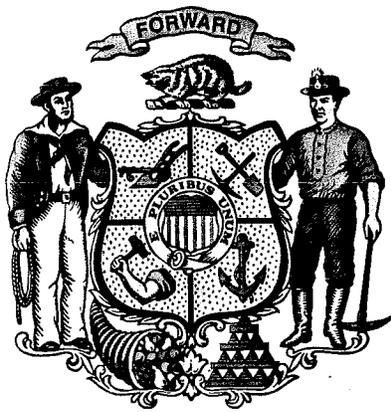
The ASCs in Wisconsin provide high quality, low-cost ambulatory surgery. Most ASCs in Wisconsin are Medicare providers and we provide that excellent care for many procedures at a rate that is 40% less than hospitals that provide the same surgery. Overall, we save the Medicare program millions of dollars each year. Our patient satisfaction ratings are very high, 98% according to a recent survey by the US Inspector General.

We also provide excellent employment for many citizens in Wisconsin, approximately 1500 citizens whose pay flows into the economy of the state. As we deal with this unfair tax burden, we deal with the risk of closing doors of ASCs, and with that, unemployment that will take money from the state instead of providing it to the state.

This assessment is not fair. The owners of ASCs already pay income and property taxes. Also, not all of the centers have the opportunity to reap any of the rewards generated by the tax because of their patient base. It is also not sustainable related to its link to federal funding.

Shouldn't we be building up the low-cost, high-quality providers of healthcare in our state? Why, at this time of economic frailty to we want to penalize an industry that is supporting jobs, paying taxes and contributing to the overall economy?

I want to thank the committee for their attention to this matter, and ask that you continue the efforts to sunset the ASC assessment.



UWHealth
University of Wisconsin
Medical Foundation

TO: Assembly Health Committee
FROM: UW HEALTH, Bob Flannery & Lisa Maroney 265-1653
DATE: February 8, 2012
RE: SUPPORT AB 408, AMBULATORY SURGERY CENTERS

Chairperson Stone, and members of the Committee, thank you for the opportunity to testify in support of Assembly Bill 408. I am the Vice President of Finance, and CFO, for the UW Medical Foundation.

UW Health consists of the UW School of Medicine and Public Health, UW Hospital and Clinics and the UW Medical Foundation. We are the largest physician group in the state. We operate jointly two ambulatory surgery centers; Madison Surgery Center is equally owned by the UW Medical Foundation, UW Hospital and Clinics and Meriter Hospital and provides a complete portfolio of day surgeries. Transformations is jointly owned by UW Medical Foundation and Meriter Hospital and offers reconstructive, and cosmetic, surgery.

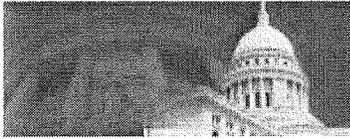
The assessment began on July 1, 2009 and both of our ASCs have been net losers; the assessment has exceeded the amount received by \$1.2

million. In fact, Transformations operated at a loss over 2010, and 2011, because of the assessment.

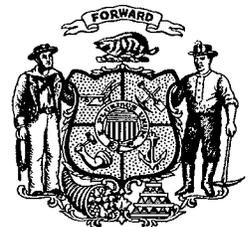
To date we have paid a total of nearly \$2.8 million under this assessment, and received \$1.6 million, creating the \$1.2 million deficit referenced earlier. What makes this assessment different from the hospital assessment is that the hospitals worked closely on the mechanics of the assessment formula and in fact, nearly all of the hospitals supported it, including the Wisconsin Hospital Association. The ASC assessment was included in the state budget with very little discussion and awareness about its impact.

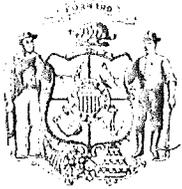
Loss of margin for our ASCs means fewer resources to put towards staffing needs, capital improvement and equipment purchases.

Again, thank you for the opportunity to appear before you today and we would be happy to answer any questions.



WISCONSIN STATE LEGISLATURE





Wisconsin State Senator
PAM GALLOWAY

Senate District 29

**Testimony on Assembly Bill 408
Assembly Committee on Health
February 8, 2012**

Chairman Stone, and members of the committee, thank you for taking the time to hear Assembly Bill 408 today.

Assembly Bill 408 seeks to sunset an assessment placed on ambulatory surgery centers. The bill would take effect on July 1, 2013, so there is no impact on the current budget.

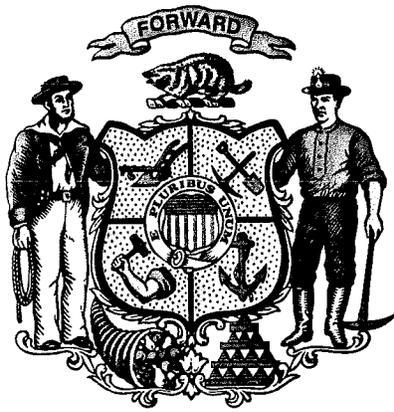
The ambulatory surgery center assessment was created in the 2009-2011 biennial budget. It authorizes the Department of Revenue to assess ambulatory surgery centers up to 5.5 percent of their annual gross patient revenue. The assessment is used to collect federal matching funds. The combined amount (assessment plus match) returned to the state supports the budget and provides enhanced Medicaid reimbursement.

These surgery centers contribute to the state's economy through taxes and employment. Clearly this assessment is not a fair tax policy. Not all of the centers have an equal opportunity to benefit from the proposed enhanced Medicaid reimbursement. There are centers providing high volumes of Medicare services to our vulnerable populations. Coupling high margins with the assessment and reimbursement can make the difference between keeping the business open or closing up.

I know there are people here today who will tell you more about these surgery centers and how they are delivering affordable care to patients and payers. As a growing health care delivery mechanism in the State of Wisconsin, ambulatory surgery centers are able to provide quality care, efficiency and cost savings to health care consumers. Many surgery centers believe the assessment placed on them has become an obstacle to the success of their business practice, and this hurts consumers. Repealing this

assessment will go a long way to keeping these centers sustained and strengthening patient access to them.

I want to thank Representative Stone for his work on this issue and for holding the hearing. My thanks also to committee members for your time and consideration.





February 8, 2012

TO: Representative Jeff Stone, Chair, Assembly Health Committee
Members of the Assembly Health Committee

FROM: Bob Kwech, President of the Ambulatory Surgery Center Association of Wisconsin

RE: Support for Assembly Bill 408

Chairman Stone and members of the Assembly Health Committee. Thank you for the opportunity to testify today on Assembly Bill 408. My name is Bob Kwech. I am Executive Director of 3 ambulatory surgery centers in the Milwaukee area, and current president of the Association. I am here today to share our support for Assembly Bill 408.

What is an "ASC." Ambulatory surgery centers (ASCs) are facilities where surgeries that do not require hospital admission are performed. Patients who choose to have surgery in an ASC arrive on the day of their procedure, have their surgery in a fully equipped operating room and recover under the care of highly skilled staff. An ASC may perform surgeries in several specialties, or dedicate their services to one specialty. Most ASCs are owned by physicians. The first ASC opened nationally in 1970, and Medicare began reimbursing ASCs in 1982. WISCA itself was created in 1995. WISCA's membership has grown to represent over 75% of the state's Medicare certified centers.

We are proud of the patient care provided by ASCs in Wisconsin. We provide a high quality, low-cost health care option. Medicare payments to ASCs for comparable services provided in a hospital setting are lower; with many procedures receiving 40% less than hospitals for the same surgeries. A National report titled "Ambulatory Surgery Centers: A Positive Trend in Health Care" reports that ASCs save the Medicare program approximately \$464 million each year. Individuals and private insurers also benefit, with savings passed on to employers in the form of lower health care costs – and employees in the form of lower co-payments.

Our quality rates very high. Certification requires routine site inspection by authorized representatives that review safety and quality of staff and the facility. In addition, many ASCs also participate in voluntary accreditation which involves external benchmarking of performance among centers. ASCs have equal if not lower infection rates compared to other health care settings.

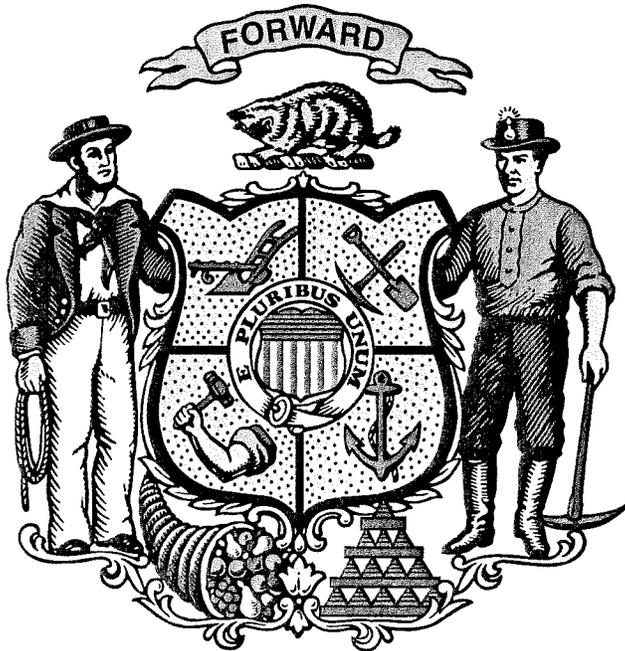
And our patient satisfaction rates are also very high. A recent survey by the US Inspector General rated ASC patient satisfaction at 98%. Some of the most common reasons shared for the high patient satisfaction are the safety and quality of services, ease of scheduling, personal attention and lower costs.

The Assessment is not working

Unfortunately the assessment is not working for Wisconsin. If anything, it has put an important part of our health care system at risk during a time we should be doing everything we can to support low-cost, high-quality care. This is not the right time to penalize our part of our state's economy that is supporting jobs, paying taxes and contributed to the overall economy. An economic impact study published last spring reports that Wisconsin's ASCs employ more than 1500 people throughout the state, and contribute an estimated \$758 million annually to the state's economy.

The assessment is not good policy. It is neither fair nor is it sustainable. ASCs owners already pay income tax and property taxes. In addition, not all of the centers in the state have the ability to capture the enhanced reimbursement because of their patient base. And the program's dependence on federal funding also makes it not sustainable.

We ask for your support in repealing the ASC assessment. This is an unfair tax that is a greater burden and cost to our centers than ever predicted. The Legislative Fiscal Bureau's report in November 2011 found that only 25 of the 58 centers studied benefited from the assessment. Far less than was ever predicted or projected when the assessment was created.



Dake, Marsha

From: Paul Nylander [pnylander@apmhealth.com]
Sent: Tuesday, February 14, 2012 2:20 PM
To: Rep.Stone; Rep.Severson; Rep.Kaufert; Rep.Van Roy; Rep.Strachota; Rep.Petersen; Rep.Litjens; Rep.Richards; Rep.Pasch; Rep.Seidel; Rep.Taylor
Subject: [Possible SPAM] Please Oppose AB 408
Importance: Low

Dear Assembly Health Committee Members:

I am writing to you on behalf of Advanced Pain Management in Greenfield, Wisconsin to ask for your opposition to Assembly Bill 408 which would repeal the Ambulatory Surgical Center Assessment (ASCA). As the Chief Operating Officer of APM, I am proud of the fact that we accept all patients regardless of their ability to pay. However, our ability to continue to accept Medicaid patients hinges on AB 408 because the assessment has allowed us to receive a fair reimbursement for Medicaid services.

APM has provided services to Medicaid beneficiaries at a loss for many years. Even with the additional reimbursement received under this program, APM continues to lose money in providing services to Medicaid patients. APM has only been able to continue providing these services to an expanding Medicaid population because of the additional Medicaid reimbursement received under this program.

If Assembly Bill 408 were to pass and the assessment was repealed, APM would not be able to sustain the losses that it incurs in serving this population. With this program, APM's reimbursement from Medicaid is still only about 40% of the reimbursement it receives from commercial insurers. If the program were eliminated that ratio would fall to about 23%.

In addition to the hardship it would place on our business, repealing the assessment will leave the State with an even bigger loss--\$17 million annually and \$13 million annually from a federal match. In addition, the cost to the state will increase as Ambulatory Surgical Centers stop accepting Medicaid patients, forcing them to receive higher-cost services through Medicaid certified hospitals.

This bill has the potential to do a lot of damage to the State's budget, my business and the Medicaid recipients that rely on the program. Please don't hastily pass AB 408 without additional discussions by all involved parties. I respectfully ask for your help in opposing AB 408.

Thank you,

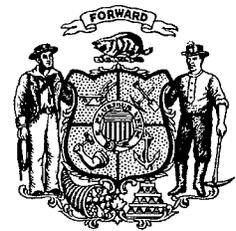
Paul R. Nylander | Chief Operating Officer
Advanced Pain Management
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pnylander@apmhealth.com | www.apmhealth.com

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2/14/2012





MEMORANDUM

TO: Members, Assembly Committee on Health

DATE: March 12, 2012

FROM: Association of Wisconsin Surgery Centers
Wisconsin Medical Society
The Orthopaedic Surgery Center
UW Health
Dean Health Systems, Inc
SSM Health Care of Wisconsin

RE: **Support for Substitute Amendment 1 to SB 297/AB 408, Ambulatory Surgery Center Assessment**

The substitute amendment, supported by the above medical groups, addresses the concerns raised about the potential effect SB 297/AB 408 would have on the structural deficit by repealing the surgery center assessment beginning in 2013.

The substitute amendment removes the language that repeals the surgery center assessment and instead adds language that provides surgery centers protection in the event the federal government stops paying the federal share of Medical Assistance (MA).

Specifically the new language makes the following changes:

- If the federal government does not pay the federal share under MA for any payment made with surgery center assessment revenue, the Department of Health Services (DHS) must refund to surgery centers the amount of the surgery center assessment revenue used to make the payment.
- DHS must make refunds to surgery centers in proportion to the percent of the assessment that the surgery centers paid. In addition, DHS must recoup any payments that are made with surgery center assessment revenue and for which the federal government does not pay the federal share under MA.

Reasons for the amendment:

- First, by removing the language in the original bill that would have repealed the surgery center assessment the substitute amendment takes away the concern raised by some that a full repeal of the surgery center assessment would lead to a structural deficit during these difficult budget times.
- Second, the language in the substitute amendment provides surgery centers protection if the federal government were to stop paying the federal share under MA. This language

provides surgery centers the same protections provided to hospitals under the Hospital Assessment (Wis. Stat. § 50.38(6)(a)1.).

- When the surgery center assessment was included in the 2009-11 biennial budget, for some reason this same protection afforded to hospitals was not granted to surgery centers.
- This amendment simply provides surgery centers the same protections afforded to hospitals, which should have been included when the surgery center assessment went into effect.

Conclusion

The above medical groups support the substitute amendment. While our ultimate goal is the full repeal of the unfair and costly surgery center assessment, we understand that this may not be possible during these tough economic times. However, we intend in the future to push for full repeal of the surgery center assessment.

Thank you for your consideration, and please feel free to contact Andy Engel (engel@hamilton-consulting.com) or Andy Cook (cook@hamilton-consulting.com) with any questions.



WISCONSIN STATE LEGISLATURE





WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director
Laura D. Rose, Deputy Director

TO: SENATOR PAM GALLOWAY

FROM: Laura Rose, Deputy Director

RE: Senate Substitute Amendment 1 to 2011 Senate Bill 297, Relating to Repealing the Ambulatory Surgery Center Assessment

DATE: March 12, 2012

Current Law

Under current law, the Department of Revenue (DOR) may impose assessments on ambulatory surgical centers in this state that satisfy the requirements under federal law for collecting an assessment without incurring a reduction in federal financial participation under the federal Medical Assistance (MA) program. The Department of Health Services (DHS) shall allocate any assessment imposed under this section among ambulatory surgical centers in proportion to their gross patient revenue.

The DOR is authorized to: determine the amount of assessment; collect the assessments; require ambulatory surgical centers to provide the DOR any data that it requires to determine assessment amounts; establish deadlines by which ambulatory surgical centers must pay the assessments and provide required data; and impose penalties on ambulatory surgical centers that do not comply with requirements under this section or rules promulgated under sub. (5).

The DOR is required to transfer 99.5% of the moneys collected under this section to the MA trust fund, and is required to promulgate rules for the administration of the assessment.

2011 Senate Bill 297

Senate Bill 297 repeals all of the above requirements.

Senate Substitute Amendment 2

You introduced Senate Substitute Amendment 2 on March 9, 2012. The Substitute Amendment retains current law, but provides that if the federal government does not pay the federal share under the

MA program for any payment made with ambulatory surgical center assessment revenue, the DHS is required to refund to the centers the amount of assessment revenue for which the federal government does not pay its share. In addition, the Substitute Amendment requires DHS to recoup any payments that are made with assessment revenue and for which the federal government does not pay its share under the MA program.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

LR:jal



Senate Bill 297...relating to: eliminating ambulatory surgical center assessment.

<p>BILL SPONSORS</p>	<p>Authored by Senators Galloway, Moulton, Vukmir, Leibham, Lazich and Grothman. Coauthored by Representatives Stone, Ziegelbauer, Spanbauer, Kapenga, Meyer, Endsley, Krug, Litjens and Kaufert.</p>
<p>BILL HISTORY</p>	<p>Senate Bill 297 was introduced on November 19, 2011 and referred to the Senate Committee on Public Health, Human Services, and Revenue. A public hearing was held on January 19, 2012. Executive action was taken on January 25, 2012, and passage was recommended 5-0.</p>
<p>COMPANION BILL HISTORY</p>	<p>Assembly Bill 408 was introduced on December 7, 2011 and referred to the Assembly Committee on Health. A public hearing was held on February 8, 2012.</p>
<p>LRB ANALYSIS</p>	<p>Under current law, the Department of Revenue (DOR) may impose an assessment on ambulatory surgical centers. The Department of Health Services allocates any assessment among the ambulatory surgical centers in proportion to their gross patient revenue. The DOR, if it imposes an assessment, must transfer 99.5 percent of the moneys collected to the Medical Assistance trust fund, which pays some of the costs for the Medical Assistance program. This bill eliminates on July 1, 2013, the ability for DOR to impose this assessment on ambulatory surgical centers.</p> <p><u>Senate Substitute Amendment 1:</u> Drafted incorrectly and will be returned to author</p> <p><u>Senate Substitute Amendment 2:</u> Under this substitute amendment, if the federal government does not pay the federal share under the MA program for any payment made with ambulatory surgical center assessment revenue, DHS is required to refund to ambulatory surgical centers the amount of assessment revenue for which the federal government does not pay its share. In addition, the substitute amendment requires DHS to recoup any payments that are made with ambulatory surgical center assessment revenue and for which the federal government does not pay its share under the MA program.</p>
<p>FISCAL EFFECT</p>	<p>DHS Estimate: Under current law, Department of Revenue assesses ambulatory surgery centers (ASC) \$16,700,000 annually. Each ASC is assessed based on its gross revenues relative to total revenues for all ASCs. DOR transfers 99.5% of the ASC assessment to the Medicaid Trust Fund. In turn DHS provides \$20,080,000 annually in Medicaid access payments to the ASCs. Annual Medicaid access payments to the ASC industry exceed total ASC assessments collected by DOR by \$3,380,000.</p> <p>Since Medicaid access payments to ASCs are supported by federal matching dollars, only \$7,925,600 (\$20,080,000 times 39.47%) of the \$16,616,500 of annual assessment transferred to the Medicaid Trust Fund is used for the payment to the ASCs. The remainder is available to reduce the GPR cost of Medicaid payments and is used to fund the state match for approximately \$22,019,000 of other Medicaid benefit payments. In total, the ASC assessment is used as match for \$25,482,500 of federal Medicaid funding.</p> <p>Under this bill, assessment costs for ASCs would decrease by \$16,700,000 annually.</p>

	<p>Also under the bill, revenue to the Medicaid Trust Fund would decrease by \$16,616,500 annually. In addition to the elimination of the ASC provider assessment, this estimate assumes that DHS would eliminate ASC access payments. Under this bill, annual payments to ASCs would decrease by \$20,080,000, which would result in a net loss of \$3,380,000 to the ASC industry annually.</p> <p>Under this bill, costs to the state will increase by \$8,690,900 GPR annually as additional state funds will be needed to fund other Medicaid benefits currently matched with ASC assessment revenue in the Medicaid Trust Fund. The effective date of this bill is July 1, 2013. As a result, the \$8,690,900 increase to annual GPR costs would not occur until state fiscal year 2014 and future years.</p>
<p>SUPPORT</p>	<p>The following persons appeared in favor of this bill:</p> <ol style="list-style-type: none"> 1. Pam Galloway, State Senator, 29th Senate District 2. Bob Welch — Orthopedic Surgery Centers 3. Mark Smith, Waukesha — Orthopedic Surgery Centers 4. Dianne Wallace, Menomonee Falls — Menomonee Falls Ambulatory Surgery Center 5. Bob Kuech, Mequon — WISCA 6. Bob Flannery, Middleton — UW Health 7. Lisa Maroney, Madison — UW Health <p>The following persons registered in favor of this bill:</p> <ol style="list-style-type: none"> 1. Michael Heifetz, Madison -----Dean Clinic & St. Mary's Hospital Madison 2. Mark Grapentine, Madison — Wisconsin Medical Society <p>No organization registered their support for the bill with the Government Accountability Board (GAB), but did not testify or register at the public hearing.</p>
<p>OPPOSITION</p>	<p>The following person appeared in opposition to this bill:</p> <ol style="list-style-type: none"> 1. Vishal Lal, Brookfield — Advanced Pain Management <p>The following persons registered in opposition to this bill:</p> <ol style="list-style-type: none"> 1. Jaime Hemes, Neenah — Advanced Pain Management <p>The following organization registered in opposition to this bill with the Government Accountability Board (GAB), but did not testify or register at the public hearing:</p> <ol style="list-style-type: none"> 1. Disability Rights Wisconsin
<p>NEUTRAL</p>	<p>None</p>
<p>REPUBLICAN MESSAGE</p>	<ul style="list-style-type: none"> • Governor Doyle and Legislative Democrats created this assessment/tax in the 2009-11 budget. • The assessment placed on surgery centers has become an obstacle to the success of their business practice, and this hurts their patients. These small businesses already pay income and property taxes. • Unlike the hospital assessment where the vast majority of hospitals benefit from the federal match, most surgery centers in Wisconsin are net losers.

	<ul style="list-style-type: none">• Repealing the assessment will go a long way to keeping these centers sustained and strengthen patient access to them.
OPPOSITION MESSAGE	<ul style="list-style-type: none">• Fiscal impact on upcoming budget.
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