



~~Texas Ambulatory  
Surgery Center Society~~

TESTIMONY & POLICY PAPER

***IMPROVING THE  
TEXAS WORKERS' COMPENSATION SYSTEM***

Thursday, April 29, 2004

STATEMENT OF:

EDWARD SMITH, D.O.  
ROBERT DENNIS, M.D.  
JAN GARRETT, M.D.

REPRESENTATIVES of The

***TEXAS AMBULATORY SURGERY CENTER SOCIETY***

Before the  
Texas Senate Select Interim Committee on Workers' Compensation

**DR. EDWARD SMITH:**

Good afternoon Chairman Staples and distinguished Select Committee members. I am Ed Smith, vice-president of the Texas Ambulatory Surgery Center Society and physician/owner of ***Surgical and Diagnostic Center, L.P.***, located in Hurst, Texas. I appreciate the invitation from this Committee to join you this afternoon to discuss improving the quality of Workers Compensation in Texas and the two charges before you today.

I am accompanied today by physician/owners from Tyler, Texas, Dr. Robert Dennis and Dr. Jan Garrett, from the ***Ambulatory Surgical Center of Tyler***, Texas.

Our society represents well over 200 licensed Ambulatory Surgical Centers or ASCs if you will, within the State of Texas. We are here today to encourage you to include ASCs in the future healthcare delivery system for injured workers. Our cost-effective healthcare service, high quality outcomes and documented very high return to work ratios establish us as a model for other providers.

We are also here to provide input to you on the two charges under your consideration and to serve as advocates for our patients, the injured workers of Texas.

ASCs provide outpatient surgical services to patients that do not require hospitalization and are licensed by the State of Texas. ASCs provide an important and growing position in the delivery of healthcare to injured workers. My ASC alone did over one thousand five hundred surgeries last year on Workers Compensation beneficiaries. Our outcomes result in a more speedy return to work and we are cost-efficient. We are also readily accessible to both the patient and the surgeon. Many ASCs are located in close proximity to the surgeons' office.

An attempt was made in the last Legislative session to reform the provider component of the Workers Compensation system. Unfortunately systematic changes including oversight were not implemented and the actual rules created by TWCC have resulted in added confusion, dysfunction and multiple lawsuits.

If the proposed reimbursement Fee Guideline, scheduled for implementation on September 1 of this year, is in fact implemented, ASCs will be unable to accept the majority of cases historically performed in ASCs on the State's injured workers. A second result will be the further attrition of surgeons from the TWCC system. Many surgeons will not care to endure the delays and infection exposure inherent in hospital facilities.

We urge you to create an environment that assures the viability of ASCs in the Workers Compensation healthcare delivery system and identifies our industry as a valuable stakeholder. The utilization of ASC services for injured workers has been and will continue to increase. We ask that our industry be consulted when public policy that affects our delivery of health care services is contemplated. Our patients' needs and interests must be considered when formulating and refining public policy.

Our Society agrees with the core issues of the TWCC Sunset Review Staff Report released this month. We agree with...

**Issue 2:** There is a need for effective return to work initiatives. Other providers should capitalize upon the unique successes that ASCs have demonstrated in this regard.

**Issue 3:** There has been lack of Stakeholder input in policy processes which has contributed to thousands of cases in queue at Medical Dispute Review and the SOAH.

**AND**

**Issue 5:** TWCC's medical dispute resolution lacks the oversight necessary to ensure fair and timely resolution of appeals and has been given direction to make reimbursement decisions that lie outside of its scope of authority.

Our Society will be testifying before the public hearing of the Sunset Review Committee on May 19, 2003.

And now, Dr. Dennis will address charge number two.

**DR. ROBERT DENNIS:**

Good afternoon Committee members. My name is Dr. Robert Dennis and I am from Tyler, Texas. I would like to address the following recommendations:

**Issue 1:** Our Society, TASCs, opposes the implementation of networks within the health care delivery system for injured Texas workers. As an alternative, we support the identification, isolation and removal of certain and specific physician providers that have demonstrated a pattern of over-utilization and who maximize physician office visits and who intentionally delay return to work status for their own financial gain. The savings realized from the elimination of this substantial over-utilization will leave a financially stable system that can pay reasonable fees to the remaining quality providers. Do not allow TWCC to reduce ASC reimbursements to less than its cost. TWCC has approved an across-the-board reduction of reimbursement to ASCs in a misguided effort to save money. The Fee Guidelines, scheduled for September 1 implementation, will eliminate ASCs from the provider pool and will increase the number of surgeons who resign as TWCC providers.

**Issue 2:** Our view is that the exodus of physician-surgeons from the Workers Compensation system must and can be reversed by reducing paperwork and increasing professional fees to a reasonable level and avoiding the implementation of networks.

And now, allow me to introduce Dr. Garrett.

**DR. JAN GARRETT:**

Good Afternoon Committee members. My name is Dr. Jan Garrett, and I am a physician/owner of an Ambulatory Surgical Center in Tyler, Texas. As an entrepreneur and small business owner, I am shocked and alarmed at the regulatory assault our industry is undergoing today by TWCC. We are quite concerned that statistics have not been comprehensively collected and ASCs have been wrongfully characterized as one of the inappropriate cost drivers within the present system. As you have heard from Dr. Smith and Dr Dennis, ASCs are part of the solution and not part of the problem.

**Issue 3:** Our Society, TASCs, recommends that the Senate Committee suspend the 2002 Professional Fee Guideline fees and postpone the impending ASC Facility Fee Schedule until the legislature can determine and consider another methodology to calculate reimbursements. The use of Medicare as a methodology is fraught with existing and potential fallacies.

**Issue 4:** TASCs recommends this Committee use the Society as a tool to continue to collect ASC cost of service data such that a reasonable ASC reimbursement may be derived. We have provided this data and recommendations to TWCC at their public hearing held on December 17, 2003. The Society has already collected the cost per procedure data from a significant number of ASCs. TASCs is willing to support, through its membership, the continuation of the ASC cost study.

And now, Dr. Smith:

**DR. EDWARD SMITH:**

**Issue 5:** TASCs recommends that Medicare not be used as a methodology for payment. Twenty percent of the procedures performed in our facility last year are not included in the Medicare fee Guidelines. Medicare's nine categories or groupers have inappropriate groupings of cases that vary widely in cost and complexity. Importantly, no consideration is given to reimbursement for special equipment, implants or supplies.

We do not have the time today to be as detailed as we would like but please look upon us as a resource and call on us as you need our support.



Thank you Senator Staples and now I will take questions you may have.