OREGON LEGISLATION ALLOWS ASCS TO EXTEND PATIENT STAY FOR UP TO 48 HOURS

Legislation introduced by Representative Rob Nosse on January 9, 2017 – House Bill 2664 – provides for the establishment of extended stay centers in Oregon. Specifically, the legislation authorizes the operation of extended stay centers, specifies criteria for their licensure and requires the Oregon Health Authority to adopt rules to implement the licensing program.

If HB 2664 passes, a properly discharged ambulatory surgery center ("ASC") patient may be admitted to an extended stay center for up to 48 hours, if, prior to admission, the patient’s physician certifies that the patient requires services provided in the center.

The extended care center is required to be located in close proximity to the ASC where the extended stay patients are receiving surgical services and is required to be sponsored by that ASC (or another ASC) that has demonstrated safe operating procedures in an outpatient surgery setting and has been in compliance with applicable rules for at least 24 consecutive months.

Similar to Medicare-certified ASCs, the extended stay center will be required to have an emergency transfer agreement with a local hospital or, alternatively, to have emergency procedures in place for transferring patients in need of hospitalization to a local hospital. In addition, the center will be required to conform to all requirements applicable to Oregon hospitals related to operations and patient care, in addition to environmental sanitation, physical plant maintenance, safety and food service. Lastly, the extended stay center will be required to clearly notify - orally and in writing - patients with Medicare coverage that services provided in an extended stay center are not covered by Medicare.

HB 2664 directs the Oregon Health Authority to adopt rules for the licensing of extended stay centers and to license up to 15 centers.

Additionally, by September 10, 2022, the Oregon Health Authority is required to report to the legislature the following information regarding extended stay centers:

- The number of facilities that have applied for an extended stay center license;
- The number of extended stay center licenses granted;
- With respect to patients served by licensed extended stay centers in this state:
  - The number of patients served;
  - The average duration of patient stays;
  - The range of and average acuity of patients served;
  - The types of surgeries performed that resulted in care in an extended stay center;
  - The cost of care provided in extended stay centers compared to the cost of postsurgical care provided in a hospital and any differences in efficiencies between extended stay centers and hospitals;
  - The rate of infection; and
  - Patient satisfaction.
- The frequency of transfers from extended stay centers to hospitals and the patients’ health outcomes; and
- National trends in the extended stay center industry and in insurance coverage of extended stay center services.

PRACTICAL TAKEAWAYS

- If HB 2664 passes, ASC owners and operators interested in extending patient stays for up to 48 hours should consider seeking licensure
of an extended stay center as soon as possible, given the limited number of centers the Health Care Authority is permitted to license.

- In the interim, interested ASC owners and operators can work toward determining whether the hospitals with whom their ASCs have entered into a transfer agreement are willing to expand the scope of the agreement to include an extended stay center and can prepare for compliance with hospital-related requirements regarding environmental sanitation, physical plant maintenance, safety and food service that will apply to extended stay centers.

For more information, please contact Emily Studebaker at (206) 406-2729 or estudebaker@hallrender.com or your regular Hall Render attorney.