Senator Deb Patterson

Chairwoman Senate Health Care Committee

Room HR E

February 26, 2024 1:00PM

Salem, Oregon

HB 4130: In Opposition

Chair Patterson and members of the Healthcare committee thank you for affording me several minutes of your time to share with you my opinion of HB 4130. My name is Dr. Shawn DeRemer and I am the President and Executive Medical Director of Anesthesia Associates Northwest based in Portland, OR. We are presently one of the largest anesthesia practices operating in Oregon constituting approximately 170 anesthesia providers practicing in numerous hospitals and ambulatory surgical facilities across the Oregon and Washington region.

As you may be aware Oregon is presently experiencing an unprecedented and catastrophic shortage of anesthesia providers. This disruption to the Oregon anesthesia market has led to significant challenges relating to retainment of existing professional staff and recruitment of new anesthesia providers over the last 24 months. We are now experiencing unsustainable wage inflation of approximately 40.0% attendant to provider compensation directly as a result of this supply disruption. The current wage inflation has significantly outpaced reimbursement attainable from government and commercial payors, all of whom remain steadfastly unwilling to increase reimbursement to offset these expenses.

The underlying cause of this market derangement is multifactorial; prior covid-19 policies engendering mass retirement, attrition of current providers pursuing higher wages via travel assignments, and concerns over social degradation/crime, and financial/tax considerations all have contributed to numerous anesthesia providers leaving the work force and/or leaving the state of Oregon. This dilemma is further exacerbated by anemic recruitment of professional staff from outside our local region to the Oregon market largely due to concerns relating to social degradation and crime associated with our state's population centers. As a result of this unfortunate circumstance Oregon is presently experiencing an anesthesia crisis of historic proportion that will not likely change anytime in the foreseeable future while our patients are being denied access to essential anesthesia and surgical care in communities across the state as a result.

Concurrent with these challenges, anesthesia practices in our region have been subject to serial annual reductions in federal Medicare reimbursement over the last 4 years while experiencing

6400 SE Lake Road, Suite 130, Portland, OR 97222 503.594.1774 office 503.594.1775 fax aanw.net

the second lowest commercial reimbursement rates in the country. All these forces are creating an unsustainable business/financial environment for anesthesia practices in Oregon. Ironically in the midst of the worst disruption in the history of anesthesia we now learn that the state of Oregon is considering implementation of HB 4130 that will engender unintended consequences, unforeseen collateral damage, stifle investment, hinder innovation, promote monopolistic practices, and foster disorder in Oregon's already tenuous and unstable medical industry. All the while local medical practices are searching for ways to maintain solvency and gain market share.

HB 4130 will preclude private equity and venture capital investment in Oregon at a time when it may be needed the most. Furthermore, the bill conveniently excludes hospitals and ambulatory surgical centers owned by hospitals from the proposed regulation. HB4130 creates an anti-competitive environment such that many medical practices and non-hospital owned surgical facilities operating under a management services organization (MSO) model will be either forced to cease business or succumb to acquisition under duress by the hospital systems. Corporate restructuring is simply not always possible. Likewise, the long-term effects of preventing existing businesses from maintaining a presence and/or new business from entering the Oregon healthcare market will be devastating for communities and residents of Oregon not only from a healthcare access and affordability perspective, but also from an economic perspective. This bill will cause the loss of local high paying jobs, deter capital investment, stifle innovation, attenuate business cycle revenue, and discourage influx of new medical professionals into our communities.

HB 4130 additionally precludes businesses from incorporating non-competitive covenants, and non-disclosure covenants within healthcare provider contracts. The effect of such actions will negatively impact Oregon medical businesses. This legislation will Strip away protections from our health care corporations severely crippling the ability to protect proprietary information and recruit or retain medical providers at remotely sustainable compensatory rates.

As a result of the profound supply disruption presently occurring within the anesthesia markets, providers have been afforded a significant degree of leverage and control within the industry pursuant to a vacuous lack provider availability. As such, we are now routinely seeing avaricious and predatory behavior on behalf of providers. It is not uncommon for them to demand compensation in excess of 150% of the inflated prevailing wage in full knowledge that our firm and our client facilities are left with no other viable option. Likewise, we routinely have providers dictating when and if they will come to work, refusing to provide on-call support, or simply calling in absent with 15 minutes notice when they have a full day of surgical patients to provide care for with no available replacement.

We have also recently seen numerous instances of mass exodus from medical facilities leaving patients caught in the middle without essential services. This unbecoming and unprofessional behavior will only escalate and become unmanageable from an employer's perspective in the absence of protections afforded by such covenants. Restricting medical businesses in this fashion imparts an implausible and unfair trade advantage on behalf of employed and contracted

6400 SE Lake Road, Suite 130, Portland, OR 97222 503.594.1774 office 503.594.1775 fax aanw.net

Anesthesia
ASSOCIATES NW

providers that have demonstrably revealed their willingness to exploit employers while also disregarding patients.

HB 4130 is ill-advised legislation given the current state of dynamic and unpredictable market forces occurring within the medical industry. This bill is poorly crafted, unreasonably far-reaching, poorly understood, and clearly has not been well vetted regarding the broad sweeping effects it will bring upon Oregon medical businesses and the communities they serve. Given all of the pressing societal and financial issues presently plaguing Oregon, the considerations addressed within this bill do not remotely constitute a crisis. HB 4130 should be carefully considered and vetted in the calm calculus of reason as opposed to being hastily pushed through the short session out of political expediency. The language within the bill itself speaks to this fact given that it portends a 7-year runway in its implementation to iron out the kinks yet does not insure any protections from the proposed legislation during that time. As such, the legislature would be well served by pausing and carefully examining all the numerous consequences, intended and otherwise of this proposed legislation (as defined in amendment HB4130-A7). I urge this committee to pause in order to better evaluate and understand the implications of this legislation at a time when the medical community desperately needs marketplace and regulatory constancy in order to regain some degree of stability in the midst of very challenging times.

Sincerely,

Shawn M. DeRemer MD
President/Executive Medical Director
Anesthesia Associates Northwest, LLC
503-594-1774
drderemer@aanw.net