October 6, 2016

Charlton L. Allen, Chairman
North Carolina Industrial Commission
430 N. Salisbury Street
Raleigh, NC 27603

Dear Chairman Allen and Commissioners:

Thank you for the opportunity to present comments in response to possible rulemaking options for the maximum allowable amounts for services provided by ambulatory surgical centers ("ASCs") in Workers’ Compensation cases under North Carolina’s Workers’ Compensation Act. Please accept this letter in support of the proposal submitted by Surgical Care Affiliates, LLC ("SCA") on September 26, 2016 to amend the previously declared invalid Rule 04 NCAC 10J .0103 specific to the fee schedule under North Carolina’s Workers’ Compensation Act for services provided by ambulatory surgical centers (ASCs).

Charlotte Surgery Center is a multi-specialty ambulatory surgery center affiliated with Surgical Care Affiliates. We have been serving Mecklenburg County cost effectively for over 30 years, and have performed 7,000 Worker’s Comp cases since 2009.

We are currently working with self-insured employers to move Worker’s Comp cases from the higher cost hospital setting to Charlotte Surgery Center, particularly from surrounding markets where there is not an ASC option. The savings opportunity versus inpatient hospital rates is significant. Should the cuts to Worker’s Comp rates drive ASC’s to exit the market, as has happened in other states, leaving only the inpatient hospitals to serve the Worker’s Comp patients, a significant financial burden would be placed on both the insurers and the self-insured employers they represent.

In April 2015, the Industrial Commission established new Workers’ Compensation fee schedules for hospitals, physicians, and ASCs. However, in promulgating regulations to establish a new fee schedule for ASCs, the Industrial Commission failed to follow the required process set forth in the Administrative Procedure Act. Consequently, the fee schedule was ruled invalid on August 9, 2016 by Wake County Superior Court Judge Paul Ridgeway.

In response to the Court’s order invalidating the April 1, 2015 fee schedule for ASCs, the Commission has requested proposals to amend Rule 04 NCAC 10J .0101, .0102, and .0103.

Charlotte Surgery Center is in full support of SCA’s proposal to align reimbursement rates for ASCs with the reimbursement rates set for hospital outpatient departments. We fully agree
that alignment of reimbursement schedules allows for site-of-service decisions to be based solely on clinical judgment, quality outcomes, and scheduling efficiency. We also believe that the 40% cost savings of $8.8 million, versus the currently valid fee schedule of 67% of billed charges, accomplishes the cost saving goals of the Commission while protecting the aforementioned clinical goals.

In addition, we fully support SCA’s proposal to cover procedures that were being conducted in ASCs prior to the enactment of the invalid fee schedule on April 1, 2015. Excluding the procedures that were previously performed at ASCs will result in an access problem for injured workers, which would violate the statutory requirements of ensuring injured workers are provided the services and standard of care required by the Workers’ Compensation Act.

Finally, we strongly oppose the three proposals submitted by insurance carriers, third-party administrators, and the North Carolina Hospital Association. The three proposals all recommend a significantly reduced fee schedule for ASCs, which would limit injured workers’ access to timely care.

Thank you for your consideration. If you have any questions, please feel free to contact me at 704-617-7324.

Sincerely,

Thomas J. Lally
C.E.O.

cc: Kendall Bourdon
Meredith Henderson
October 10, 2016

Charlton L. Allen, Chairman
North Carolina Industrial Commission
430 N. Salisbury Street
Raleigh, NC 27603

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We are in full support of SCA’s proposal to align reimbursement rates for ASCs with the reimbursement rates set for hospital outpatient departments. We fully agree that alignment of reimbursement schedules allows for site-of-service decisions to be based solely on clinical judgment, quality outcomes, and scheduling efficiency.

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We strongly oppose the three proposals submitted by insurance carriers, third-party administrators, and the North Carolina Hospital Association. The three proposals all recommend a significantly reduced fee schedule for ASCs, which would limit injured workers’ access to timely care and also fail to meet the statutory requirement that ASCs receive reasonable fees.
It is also very significant that the other three proposals do not address all procedures that were being conducted in ambulatory surgery centers prior to the enactment of the invalid fee schedule on April 1, 2015. By limiting injured workers access to care for all procedures that have been historically performed in the ASC setting, workers will be forced to receive care in the higher-cost inpatient hospital setting.

The other three proposals are not cost effective and so do not meet statutory requirement of the North Carolina Workers Compensation Act. North Carolina law requires that fee schedules adopted by the Commission be adequate to ensure that injured workers are provided the standard of services and care intended by the Workers’ Compensation Act and that providers are reimbursed reasonable fees for providing these services. The three other proposals do not meet these requirements.

Lastly, the analysis conducted by NCCI does not take into consideration the shift of injured workers from the ASC setting to the more-costly hospital inpatient setting, therefore, underestimating the cost to the workers’ compensation system.

Thank you for your consideration.

Sincerely,

Sean Rambo
President/COO, Compass Surgical Partners

cc: Kendall Bourdon
    Meredith Henderson
October 10, 2016

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430 N. Salisbury Street
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Thank you for your consideration.

Sincerely,

Debbie Long,
Business Office Manager

cc: Kendall Bourdon
Meredith Henderson
October 10, 2016

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North Carolina Industrial Commission
430 N. Salisbury Street
Raleigh, NC 27603

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Thank you for your consideration.

Sincerely,

[Signature]

Katy Bruce, Administrator

cc: Kendall Bourdon
     Meredith Henderson
October 10, 2016

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North Carolina Industrial Commission
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Raleigh, NC 27603

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Thank you for your consideration.

Sincerely,

Sean M. McNally, CEO
Raleigh Orthopaedic Clinic

cc: Kendall Bourdon
Meredith Henderson
October 10, 2016

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Thank you for your consideration.

Sincerely,

Robert Satterfield, M.D.
Orthopaedic Surgeon

cc: Kendall Bourdon
Meredith Henderson
October 10, 2016

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Thank you for your consideration.

Sincerely,

Douglas Freels, MD
Orthopaedic Surgeon

cc: Kendall Bourdon
Meredith Henderson
October 10, 2016

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Thank you for your consideration.

Sincerely,

[Signature]

B. Todd Smith, MD
Orthopaedic Surgeon

cc: Kendall Bourdon
Meredith Henderson
October 10, 2016

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North Carolina Industrial Commission
430 N. Salisbury Street
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Sincerely,

[Signature]

Lew Martin, MD
Orthopaedic Surgeon

cc: Kendall Bourdon
Meredith Henderson
October 10, 2016

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Sincerely,

Adam Thorp, MD
Orthopaedic Surgeon

cc: Kendall Bourdon
    Meredith Henderson
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The other three proposals are not cost effective and so do not meet statutory requirement of the North Carolina Workers Compensation Act. North Carolina law requires that fee schedules adopted by the Commission be adequate to ensure that injured workers are provided the standard of services and care intended by the Workers' Compensation Act and that providers are reimbursed reasonable fees for providing these services. The three other proposals do not meet these requirements.

Lastly, the analysis conducted by NCCI does not take into consideration the shift of injured workers from the ASC setting to the more-costly hospital inpatient setting, therefore, underestimating the cost to the workers' compensation system.

Thank you for your consideration.

Sincerely,

[Signature]

Zizette Gabriel, MD
Anesthesiologist / Pain Management

cc: Kendall Bourdon
    Meredith Henderson
October 10, 2016

Charlton L. Allen, Chairman
North Carolina Industrial Commission
430 N. Salisbury Street
Raleigh, NC 27603

Dear Chairman Allen and Commissioners:

Thank you for the opportunity to present comments in response to possible rulemaking options for the maximum allowable amounts for services provided by ambulatory surgical centers ("ASCs") in Workers' Compensation cases under North Carolina's Workers' Compensation Act. Please accept this letter in support of the proposal submitted by Surgical Care Affiliates, LLC ("SCA") on September 26, 2016 to amend the previously declared invalid Rule 04 NCAC 10J .0103 specific to the fee schedule under North Carolina's Workers' Compensation Act for services provided by ambulatory surgical centers (ASCs).

In April 2015, the Industrial Commission established new Workers' Compensation fee schedules for hospitals, physicians, and ASCs. However, in promulgating regulations to establish a new fee schedule for ASCs, the Industrial Commission failed to follow the required process set forth in the Administrative Procedure Act. Consequently, the fee schedule was ruled invalid on August 9, 2016 by Wake County Superior Court Judge Paul Ridgeway.

In response to the Court's order invalidating the April 1, 2015 fee schedule for ASCs, the Commission has requested proposals to amend Rule 04 NCAC 10J .0101, .0102, and .0103.

We are in full support of SCA's proposal to align reimbursement rates for ASCs with the reimbursement rates set for hospital outpatient departments. We fully agree that alignment of reimbursement schedules allows for site-of-service decisions to be based solely on clinical judgment, quality outcomes, and scheduling efficiency.

In addition, we fully support SCA's proposal to cover procedures that were being conducted in ASCs prior to the enactment of the invalid fee schedule on April 1, 2015. Excluding the procedures that were previously performed at ASCs has resulted and will continue to result in an access problem for injured workers, which violates the statutory requirement of ensuring injured workers are provided the services and standard of care required by the Workers' Compensation Act.

We strongly oppose the three proposals submitted by insurance carriers, third-party administrators, and the North Carolina Hospital Association. The three proposals all recommend a significantly reduced fee schedule for ASCs, which would limit injured workers' access to timely care and also fail to meet the statutory requirement that ASCs receive reasonable fees.
It is also very significant that the other three proposals do not address all procedures that were being conducted in ambulatory surgery centers prior to the enactment of the invalid fee schedule on April 1, 2013. By limiting injured workers access to care for all procedures that have been historically performed in the ASC setting, workers will be forced to receive care in the higher-cost inpatient hospital setting.

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Thank you for your consideration.

Sincerely,

Ann DuPree Orr, RN BSN CNOR
Administrator – Team Carolinas

cc: Kendall Bourdon
    Meredith Henderson
October 3, 2016

Charlton L. Allen, Chairman
North Carolina Industrial Commission
430 N. Salisbury Street
Raleigh, NC 27603

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Thank you for your consideration. If you have any questions, please feel free to contact me at (919)-781-4311.

Sincerely,

Hans Rohm

cc: Kendall Bourdon
    Meredith Henderson
October 3, 2016

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North Carolina Industrial Commission
430 N. Salisbury Street
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Sincerely,

[Signature]

Dr. Alphin, M.D. Medical Director

cc: Kendall Bourdon
    Meredith Henderson
October 3, 2016

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North Carolina Industrial Commission  
430 N. Salisbury Street  
Raleigh, NC 27603

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Sincerely,

Larnessa Greene

cc: Kendall Bourdon
    Meredith Henderson
October 3, 2016

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North Carolina Industrial Commission
430 N. Salisbury Street
Raleigh, NC 27603

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Thank you for your consideration. If you have any questions, please feel free to contact me at (919)-781-4311.

Sincerely,

Becky Ballard

cc: Kendall Bourdon
Meredith Henderson
October 3, 2016

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North Carolina Industrial Commission
430 N. Salisbury Street
Raleigh, NC 27603

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Sincerely,

Grace Smith

cc: Kendall Bourdon
    Meredith Henderson
October 3, 2016

Charlton L. Allen, Chairman
North Carolina Industrial Commission
430 N. Salisbury Street
Raleigh, NC 27603

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Sincerely,

Sabrina Robinson

cc: Kendall Bourdon
    Meredith Henderson
October 3, 2016

Charlton L. Allen, Chairman
North Carolina Industrial Commission
430 N. Salisbury Street
Raleigh, NC 27603

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Sincerely,

Colleen Lochamy

cc: Kendall Bourdon
    Meredith Henderson
October 3, 2016

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North Carolina Industrial Commission
430 N. Salisbury Street
Raleigh, NC 27603

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Sincerely,

Parrish Dickens

cc: Kendall Bourdon
    Meredith Henderson
October 3, 2016

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North Carolina Industrial Commission
430 N. Salisbury Street
Raleigh, NC 27603

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Sincerely,

[Signature]

Danny Thompson

cc: Kendall Bourdon
    Meredith Henderson
October 3, 2016

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North Carolina Industrial Commission
430 N. Salisbury Street
Raleigh, NC 27603

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Sincerely,

Cassandra Clark

cc: Kendall Bourdon
    Meredith Henderson
October 3, 2016

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North Carolina Industrial Commission
430 N. Salisbury Street
Raleigh, NC 27603

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Kathy Leibl, Administrator

cc: Kendall Bourdon
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Tiffany Sweeney

cc: Kendall Bourdon
    Meredith Henderson
October 3, 2016

Charlton L. Allen, Chairman
North Carolina Industrial Commission
430 N. Salisbury Street
Raleigh, NC 27603

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Kendra Johnson

cc: Kendall Bourdon
    Meredith Henderson
October 3, 2016

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Sincerely,

Michelle L. Kehm
Revenue and Special Operations Director

cc: Kendall Bourdon
    Meredith Henderson
October 3, 2016

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430 N. Salisbury Street
Raleigh, NC 27603

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Sincerely,

[Signature]

William K. Andersen, MD, FRAAS

cc: Kendall Bourdon
    Meredith Henderson
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430 N. Salisbury Street
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[Signature]

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Christie

cc: Kendall Bourdon
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Administrative Director

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430 N. Salisbury Street
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Thank you for your consideration.

Sincerely,

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cc: Kendall Bourdon
    Meredith Henderson
October 10, 2016

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Norman S Regal, DPM, FACFAS

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Christine L. McCuen, MD

cc: Kendall Bourdon
    Meredith Henderson
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