



2016 Legislative Session – End of Session Report

April 4, 2016

With final passage of an \$82.3 billion dollar budget for FY 2016-17 along with tax relief for businesses and families, Florida's Legislative Session concluded on time on Friday March 11, 2016. The budget makes investments in Florida's education system, health care, environment, corrections and court systems. This year, the Florida Legislature passed 279 bills during the Legislative Session, representing 15.4% of the total bills filed, as compared to passage of 13.2% of the bills filed in 2015.

This was a very successful Legislative Session for LeadingAge Florida with many bills advocated for and monitored by LeadingAge Florida passing the Legislature. The following final report highlights the victories and accomplishments of LeadingAge Florida and includes the key issues funded in the budget, as well as health care legislation and other bills of interest passed by the Legislature.

LeadingAge Florida's 2016 Legislative Priorities

Prior to the convening of the 2016 Legislative Session the LeadingAge Florida Board of Trustees approved several 2016 Public Policy Priorities. These priorities and the outcomes of LeadingAge Florida's advocacy efforts on these issues are described below:

- **Preserve the Certificate of Need for Nursing Homes** - LeadingAge Florida supports the retention of a CON process for nursing home beds. The CON process encourages efficient use of less restrictive long-term care options and, therefore, restrains long-term care cost increases for Medicaid as well as for all other payers.

HB 437 by Rep. Chris Sprowls relating to Certificates of Need for Hospitals removed CON requirements for new, expanded or modified hospitals. ***LeadingAge Florida's members and advocacy team expressed concerns about expanding this legislation to nursing homes to both the sponsor and legislative leadership and the bill died on Calendar.***

SB 1144 by Sen. Don Gaetz relating to Certificates of Need for Health Care related Projects. The bill did not repeal certificate of need for hospitals but rather provided an exemption from the CON requirement for projects providing access to care for uninsured and low-income residents. The bill also would have required new hospices, hospitals, and nursing homes to provide twice as much charity care as established facilities. **LeadingAge Florida was prepared with amendatory language to remove nursing homes from the legislation and was joined in our opposition to the bill by many other interested stakeholders, and ultimately the bill failed to pass its second committee of reference and died in Committee. LeadingAge Florida's advocacy team will continue to educate legislators about the CON process and the need to retain it for nursing home beds.**

- **Support funding in the Governor's Legislative Budget Request for \$500,000 to the Agency for Health Care Administration to contract with an independent consultant to develop a plan, in concert with interested stakeholders including LeadingAge Florida, to convert Medicaid payments for nursing home services from a cost-based reimbursement methodology to a prospective payment or similar system** - The current Florida Medicaid Long-Term Care Reimbursement Plan was developed over 30 year ago with input from stakeholders. The plan has been tweaked periodically, but it has fundamentally served Floridians well by encouraging providers to spend adequate money on care rather than profit, subject to cost limits and caps. During the 2015 Legislative Session, the House proposed funding a study to transition nursing home reimbursement from fee-for-service to a prospective reimbursement plan. The House proposal called for a very short study time-frame and no formal input from stakeholders. It is important lawmakers call for a longer study period so AHCA has sufficient time to collaborate with providers and other stakeholders in the development of a prospective payment system which is appropriate for Florida and does not undermine the quality of nursing home care. **LeadingAge Florida proactively supported the Governor's and Legislature's budget recommendations and the funding for the study was included in HB 5001, the General Appropriations Act, passed by the Legislature and signed into law by Governor Scott. LeadingAge Florida looks forward to being actively involved in the development of a fair, equitable reimbursement system that has quality care at its core and has held initial meetings with AHCA to share LeadingAge Florida's priorities for a new Medicaid Prospective Payment Plan.**
- **Modify the Gold Seal Nursing Home Financial Criteria for Nursing Homes that are Part of Continuing Care Retirement Communities** – LeadingAge Florida supports language to modify the financial requirements for the Gold Seal Program and allow a Continuing Care Retirement Community, under certain circumstances, to meet the financial standards adopted by AHCA for the Gold Seal Program by submitting CPA reviewed or audited financial statements for the corporation that owns the CCRC rather than the nursing home component.

HB 127 by Rep. Travis Cummings and SB 542 by Sen. Kelli Stargel relating to Continuing Care Communities were filed at the request of LeadingAge Florida members. **As LeadingAge Florida's top legislative priority for 2016, our members and advocacy team supported this legislation throughout the process. The bill passed the Legislature, has been signed by Governor Scott and is now in effect.**

- **Expand the Prescribing Authority for Advanced Registered Nurse Practitioners** – LeadingAge Florida supports authorizing advanced registered nurse practitioners (ARNPs) acting under the direction of a licensed physician to order controlled substances for patients. Florida is one of a few states that does not allow ARNPs full prescribing authority, yet these professionals play an increasingly important role in our health care system, particularly in long-term care settings where physicians are not on site to oversee pain management.

HB 1241 by Rep. Plasencia relating to Ordering of Medication includes language advocated for by LeadingAge Florida expanding the ordering authority for Advanced Registered Nurse Practitioners (ARNPs) and Physician Assistants (PAs) and authorizes an ARNP to order any medication for administration to a patient in a hospital, ambulatory surgical center, mobile surgical facility or nursing home within the framework of an established protocol. **LeadingAge Florida successfully advocated for including nursing homes in this legislation which passed the Legislature and has been signed into law by Governor Scott.**

HB 423 by Rep. Pigman relating to Access to Health Care Services authorizes ARNPs to prescribe, dispense, order, and administer controlled substances, but only to the extent authorized under a supervising physician's protocol. A committee is established to recommend a formulary of controlled substances that an ARNP may not prescribe or may only prescribe for a specific use or in limited quantities, and prescribing privileges are limited in certain circumstances. **LeadingAge Florida supported this legislation which passed the Legislature. The Governor has until April 14th to act on this bill.**

- **Increase Funding for Home & Community-based Services (Medicaid Managed Long-term Care Program)** – LeadingAge Florida supports increased funding for Home and Community-Based Services. **During the 2016 Legislative Session, LeadingAge Florida supported funding in the final budget, HB 5001, that included an increase in funding for home and community-based services** (\$8.14 million to remove over 500 individuals from the long-term care waitlist managed by DOEA) and Community Care for the Elderly (an increase of \$1.9 million to serve approximately 324 individuals at risk of nursing home placement); two programs used by residents of affordable housing senior communities. This funding increase may also benefit LeadingAge Florida members receiving state and federal funds to provide these services.

The final budget includes an increase of \$1.6 million for the Alzheimer's Disease Initiative to provide additional respite services for approximately 133 individuals. Funding was also appropriated by the Legislature for FY 2016-17 to increase PACE (Program of All-inclusive Care for the Elderly) slots.

- **Use Housing Trust Funds for their Intended Purpose** – **As a member of the Sadowski Housing Coalition, LeadingAge Florida supports and advocates for the appropriation of all the state and local housing trust fund money to be dedicated for affordable housing.** The Legislature passed and the Governor approved a final total appropriation of \$275 million for affordable housing (\$200 million from the Housing Trust Fund and approximately \$75 million from the Guarantee Program to be spent on the State Apartment Incentive Loan (SAIL) program). This Session, almost \$117 million was swept from the Housing Trust Fund into General Revenue. LeadingAge Florida will continue to support the Sadowski Housing Coalition and advocate that funds from the Housing Trust be used for their intended purpose.
- **Retain Statutory Safeguards for Medicaid Managed Long-term Care Related to Consumer Choice, Quality, and Reimbursement Adequacy** - Florida's Medicaid Long-term Care Program includes important safeguards to ensure that elder consumers have a choice when selecting a nursing home that will be their "home" for months or possibly years, among other protections. **LeadingAge Florida monitored all legislative activities to ensure these provisions are maintained and continues to advocate quality care as the core of any proposed reimbursement system.**
- **Fund a Medicaid Price Level Increase for Nursing Homes** - Florida's legislative budgeting process no longer provides automatic price level increases for nursing homes. During the 2010 session, nursing home rates were frozen and all subsequent increases have to be explicitly authorized by the Legislature. As of September 1, 2015, about 85 percent of nursing homes are reimbursed below their cost of care for Medicaid residents. A price level increase was not included in the 2016-17 General Appropriations Act. **LeadingAge**

Florida initially believed that a price level increase would be forthcoming during the 2016 Legislative Session, however, the statutory per day reimbursement limit precluded the increase for 2016-17.

LeadingAge Florida's advocacy team was actively involved in legislation of interest to our members including the following bills passed by the Legislature:

- **Prescription Drug Monitoring Program**

SB 964 by Sen. Grimsley relating to Prescription Drug Monitoring Program exempts a rehabilitative hospital, an assisted living facility or a nursing home dispensing a controlled substance, as needed, to a patient as ordered by the patient's treating physician, from the reporting requirements of the Prescription Drug Monitoring Program (PDMP). **LeadingAge Florida supported this legislation as the new law benefits LeadingAge members by allowing a doctor to treat his/her patient by leaving an order for pain medicine at the nursing home or ALF and exempting them from the reporting requirement. This bill has been signed into law by Governor Scott.**

- **Nurse Licensure Compact**

HB 1061 by Rep. Pigman relating to Nurse Licensure Compact allows nurses who receive their certification in a participating state to also practice in Florida without having to go through additional training. The legislation provides a structure for a revamped compact which will supersede the current compact and need approval from participating states. **LeadingAge Florida supported this legislation addressing the nursing workforce shortage issue by allowing Florida nurses to request multi-state licenses, and nurses from other states who hold multi-state licenses to practice in Florida. The bill has been signed into law by Governor Scott.**

- **Firesafety for Assisted Living Facilities**

HB 965 by Rep. Harrison relating to Firesafety modernizes firesafety codes for Assisted Living Facilities. The legislation allows for the adoption of the current edition of the NFPA Life Safety Code for ALFs. The new law will allow an assisted living facility licensed prior to July 1, 2016, to remain under the 1994 and 1995 Life Safety Code (LSC) by affirmatively notifying the local authority. Such an ALF may make certain repairs or renovations in compliance with the 1994 code under certain circumstances. However, an ALF undergoing Level III building alteration or rehabilitation or seeking to utilize features not authorized under the 1994 or 1995 editions must comply with the newer standards adopted by the State Fire Marshal. **Working with the Florida Chapter of the Assisted Living Federation of America, LeadingAge Florida supported this proposal which has been signed into law by Governor Scott.**

- **Transparency in Health Care**

HB 1175 by Rep. Sprowls relating to Transparency in Health Care requires hospitals and insurers to make certain information available to consumers to make health care decisions based on cost and quality and creates a website for consumers to see costs by health care providers. **LeadingAge Florida successfully advocated removing a provision from the bill requiring nursing homes, upon request, to provide a written good faith estimate of reasonably anticipated charges for services provided by the nursing home within seven business days after receiving a request and to provide information disclosing payment plans, discounts, other available assistance, and collection procedures. The bill has been presented to the Governor who has until April 14th to act on this bill.**

- **Telehealth**

HB 7087 by Rep. Sprowls relating to Telehealth authorizes the Agency for Health Care Administration (AHCA), the Department of Health (DOH) and the Office of Insurance Regulation (OIR) to survey health care facilities, health care practitioners, insurers, and health maintenance organizations, regarding the use of telehealth. The AHCA must submit a report of the survey and research findings to the presiding officers and the Governor by December 31, 2016. A Telehealth Advisory Council is created within AHCA to make recommendations based on the surveys and research findings of the agencies. The bill provides for the make-up of the advisory council, to consist of 15 members, including two representatives of long-term care services one of whom shall be a representative of a nursing home. ***The bill has been presented to the Governor who has until April 14th to act on this bill. LeadingAge Florida is actively advocating for representation on the Advisory Council.***

Many legislative proposals were monitored regularly by LeadingAge Florida's advocacy team for any provisions or amendments affecting our membership, including the following bills passed by the Legislature:

- **Residential Facilities**

SB 1174 by Sen. Diaz de la Portilla relating to Residential Facilities clarifies the siting requirements for community residential homes. The law currently addresses distance requirements for siting of community residential homes. Homes with 7 – 14 residents may not be constructed within 1,200 feet of another such home; a home of 6 or fewer residents may not be constructed within 1,000 feet of another such home. There is no requirement for the distance between a 7-14 resident home and a 6 resident or fewer home. The new law sets that distance requirement at 1,200 feet. The bill also provides a grandfathering provision for existing community residential homes lawfully permitted and operational as of the effective date of the act. This legislation is intended to address an issue occurring primarily in Miami-Dade County.

- **Long-term Care Managed Care Prioritization**

HB 1335 by Rep. Magar relating to Long-term Care Managed Care Prioritization clarifies the roles of the various state agencies with authority to implement and regulate the long-term care waitlist. The new law codifies the role that the Department of Elder Affairs (DOEA) currently has to assess and prioritize individuals on the waitlist for home and community-based services available through the Medicaid Long-term Care Program – a program that frail residents of affordable housing depend on. DOEA is required to maintain a statewide waitlist for enrollment for the home and community-based services portion of LTCMC, and to prioritize individuals for potential enrollment using a frailty-based screening tool that generates a priority score. The DOEA must develop the screening tool by rule and make publicly available on its website the specific methodology used to calculate an individual's priority score. The bill requires individuals to be rescreened at least annually or upon notification of a significant change in the individual's circumstances. The following persons are exempted from the screening and waitlist process: individuals who have been in a nursing facility for at least 60 consecutive days and want to be discharged back into the community, individuals who are between the ages of 18 and 20 who have a chronic debilitating disease or conditions that make them dependent upon 24-hour medical supervision, or individuals who have been referred by Adult Protective Services and are at risk of abuse.

- **Missing Persons with Special Needs**

SB 230 by Sen. Dean relating to Missing Persons with Special Needs creates the "Project Leo" pilot project in five North Florida counties – Alachua, Baker, Columbia, Hamilton, and Suwannee – and separate pilot projects in Palm Beach and Hillsborough counties. The pilot projects are to provide personal devices to aid

search-and-rescue efforts for persons with special needs in the case of elopement. While the bill does not define special needs, the staff analysis specifically describes elopement and wandering of children with autism and individuals with Alzheimer's disease and other forms of dementia as individuals with special needs.

The pilot projects will be developed and administered by the Center for Autism and Related Disabilities at the University of Florida for the North Florida counties. The Center for Autism and Related Disabilities at Florida Atlantic University will develop and administer the Palm Beach County project and the Center for Autism and Related Disabilities at the University of South Florida will develop the criteria for the Hillsborough County project. The bill appropriates \$100,000 in nonrecurring funds for each CARD center. Each center is to submit a preliminary report by December 1, 2016, and a final report to the Governor and Legislature on the implementation and operation of its pilot project by December 15, 2017.

- **Guardianship**

SB 232 by Sen. Detert relating to Guardianship provides for the regulation of professional guardians, currently not regulated in Florida, by the Office of Public and Professional Guardians (previously named Statewide Public Guardianship Office) within the Department of Elder Affairs. The law requires annual registration of professional guardians and gives the Office of Public and Professional Guardians disciplinary and enforcement powers. LeadingAge Florida will monitor implementation of the new law, including the development of rules for the professional guardian program which has already been noticed by the Department of Elder Affairs.

- **Housing Assistance**

SB 1534 by Sen. Simmons relating to Housing Assistance provides greater flexibility and increases accountability for programs receiving public funds to address housing assistance and homelessness. The State Apartment Incentive Loan (SAIL) program provides low-interest loans on a competitive basis to affordable housing developers each year. The bill amends the SAIL program to:

- Change how funds are made available to better reflect projected needs and demand for affordable housing for the specified tenant groups and counties based on population; and
- Require rent controls on rental units financed through the SAIL program based on applicable income limitations established by the Florida Housing Finance Corporation.

The State Housing Initiatives Partnership (SHIP) program provides funds to local governments to create partnerships that produce and preserve affordable homeownership and multifamily housing for very low, low and moderate-income families. The bill amends the SHIP program to:

- Provide exceptions to the restriction on counties and eligible municipalities related to expenditures of SHIP Program distributions for ongoing rent subsidies;
- Provide that up to 25 percent of the SHIP Program funds made available in a county or municipality may be reserved for rental housing;
- Clarify monitoring requirements when SHIP program funds are used for rental housing developments;
- Extend the time period for the FHFC to review local housing assistance plans from 30 to 45 days;
- Require local governments to use a minimum of 20 percent of SHIP program distributions to serve persons with special needs, with first priority given to serving persons with developmental disabilities; and
- Authorize local governments to create regional partnerships and pool appropriated funds to address homeless housing needs identified in local housing assistance plans.

- **Physician Assistants**

HB 375 by Rep. Steube relating to Physician Assistants authorizes a physician assistant (PA) to perform services delegated by a supervising physician related to the PA's practice and in accordance with his or her education and training, unless such services are expressly prohibited by a statute or rule. The legislation streamlines the PA licensure and licensure renewal processes.

- **Licensure of Health Care Professionals**

HB 941 by Rep. Gonzalez relating to the Department of Health (DOH) amends laws relating to programs administered by the DOH. The legislation among other provisions allows temporary licensure of military health care practitioners, enabling them to practice in health care settings in this state. The legislation extends the amount of time an emergency medical technician (EMT) or a paramedic has to renew a lapsed certification and to pass a certification exam for such renewal, and exempts an EMT or a paramedic not trained in this state, who passes a nationally recognized certification examination, from the state certification examination. The bill exempts chiropractors licensed in another state who participate in an approved continuing education (CE) program from licensure, and exempts manufacturers of home renal dialysis kits from pharmacy permit requirements, and allows DOH to issue a one-year temporary license to a medical physicist. The new law also repeals the Council on Certified Nursing Assistants.

- **Behavioral Health Workforce**

HB 977 by Rep. Peters relating to Behavioral Health Workforce among other provisions adds psychiatric nursing as a certification eligible for licensure as an advanced registered nurse practitioner and authorizes a psychiatric nurse to prescribe psychotropic controlled substances within an established protocol with a psychiatrist. The legislation also subjects psychiatric nurses to additional disciplinary actions related to the prescribing of psychotropic controlled substances.

- **Mental Health and Substance Abuse**

SB 12 by Sen. Garcia relating to Mental Health and Substance Abuse enhances the statewide system of safety-net prevention, treatment, and recovery services for substance abuse and mental health administered by the Department of Children and Families (DCF) by amending statutes related to behavioral health managing entities (ME), the Criminal Justice, Mental Health, and Substance Abuse Grant Program, and the Baker Act (mental illness) and Marchman Act (substance abuse). The legislation identifies the components of a coordinated system of care to be provided for individuals with mental illness or substance use disorder and defines a "No Wrong Door" model for accessing care. It directs AHCA and DCF to modify licensure requirements through the rulemaking process, if possible, to create an option for a single, consolidated license to provide both mental health and substance use disorder services.

AHCA and DCF are directed to develop a plan to increase federal funding for behavioral health care and compile detailed documentation of the cost and reimbursements for Medicaid-covered services provided to Medicaid-eligible individuals by providers of behavioral health care services. The legislation more closely aligns the Baker and Marchman Acts by modifying the legal procedures and timelines as well as processes for assessment, evaluation, and provision of services.

- **Mental Health Services in the Criminal Justice System**

HB 439 by Rep. McBurney relating to Mental Health Services in the Criminal Justice System expands the authority of courts to use treatment-based mental health and substance abuse court programs for

defendants who are involved in the criminal justice process at both the preadjudicatory and postadjudicatory level. The legislation:

- creates the Forensic Hospital Diversion Pilot Program, which is to be modeled after the Miami-Dade Forensic Alternative Center, and authorizes the Department of Children and Families to implement the pilot program in Duval, Broward, and Miami-Dade Counties, if existing recurring resources are available;
- authorizes county court judges to order misdemeanants to involuntary outpatient placement if the misdemeanants meet specified criteria;
- creates statutory authority for each county to establish a mental health court program that provides pretrial intervention and post-adjudicatory programs and authorizes courts to order adult and juvenile offenders who have mental illnesses to participate in such programs;
- expands the definition of “veteran,” for the purpose of eligibility for veterans’ court, to include veterans who were discharged or released under a general discharge; and
- expands the statutory authorization for certain offenders to transfer to a “problem-solving court” in another county to also include transfer to delinquency pretrial intervention programs.

- **Medical Use of Cannabis**

HB 307 by Rep. Gaetz relating to Medical Use of Cannabis amends the compassionate use statute on low-THC cannabis to include medical cannabis prescribed by a qualified physician for eligible patients allowing a patient with a terminal condition to use “medical cannabis” under the Right to Try Act (RTTA). The bill authorizes approved Dispensing Organizations to cultivate, process, transport, and dispense medical cannabis for use by RTTA patients. Increased regulatory oversight by the Department of Health is provided. The bill creates stricter criteria ordering physicians must meet before ordering low-THC or medical cannabis, including establishing a patient relationship for a certain length of time, new education requirements, informed consent, a prohibition on being a medical director employed by a Dispensing Organization, and an order limit of a 45-day supply at a time. Penalties are provided. New standards for Dispensing Organizations are provided, including standards for growing, processing, testing, packaging, labeling, dispensing, distributing, and transporting of cannabis. The bill also authorizes independent testing laboratories to possess, test, transport, and lawfully dispose of cannabis. The use and administration of cannabis under certain circumstances is prohibited and criminal penalties for violations are created. The DOH is authorized to approve three additional Dispensing Organizations.

- **Sunset Review of Medicaid Dental Services**

HB 819 by Rep. Diaz relating to Sunset Review of Medicaid Dental Services removes dental services from the list of minimum benefits that Medicaid Managed Assistance (MMA) plans must provide, effective March 1, 2019. Effective July 1, 2017, the Agency for Health Care Administration must implement a statewide Prepaid Dental Health Plan program for children and adults and begin enrollment by March 1, 2019. The Office of Program Policy Analysis and Government Accountability (OPPAGA) is required to prepare a report on Medicaid dental services. The legislation specifies requirements of the report which must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2016. The Legislature is to use the findings of the report to establish the scope of minimum benefits under the MMA program for future procurements of eligible plans; specifically, the Legislature may use the findings of the report to determine whether dental benefits should be benefits under the MMA program or be provided separately.

The following bills monitored by LeadingAge Florida did not pass the Legislature but are noteworthy as legislative proposals to be on the look-out for in 2017, including some bills that have been filed at least two years in a row:

HB 301 by Rep. Burton/SB 842 by Sen. Hays relating to Property Prepared by Tax-Exempt Status consolidates provisions relating to tax exemptions on property owned by certain tax-exempt organizations and expands the ad valorem tax exemption for an exempt organization that is taking affirmative steps to prepare property to be used for an exempt purpose. LeadingAge Florida will continue to monitor this issue to ensure language is included clarifying that providing affordable housing is considered a charitable use.

HB 325 by Rep. Campbell/SB 572 by Sen. Altman relating to Involuntary Examination under the Baker Act authorizes physician assistants and Advanced Registered Nurse Practitioners to initiate involuntary examinations under the Baker Act of persons believed to have mental illnesses. LeadingAge Florida will continue to monitor the expansion of authority for ARNPs.

HB 401 by Rep. Gonzalez relating to Protection of Religious Freedom provides immunity from liability for religious institutions, health care providers, including nursing homes, assisted living facilities and hospices, and other entities for refusing to perform certain actions, such as a medical treatment or procedure that would be contrary to religious or moral convictions or policies.

HB 45 by Rep. Raschein/SB 120 by Sen. Abruzzo relating to Prohibited Discrimination creates the "Florida Competitive Workforce Act" which prohibits discrimination based on sexual orientation and gender identity or expression.

SB 664 by Sen. Brandes/HB 957 by Rep. Gonzalez relating to Physician Orders for Life-sustaining Treatment (POLST) directs the Department of Health to develop and adopt a POLST form by rule, authorizes specific personnel to withhold CPR pursuant to a DNRO or a POLST form which contains an order not to resuscitate, and provides immunity from civil and criminal liability to such personnel, facility staff and facilities for withholding or withdrawing CPR. The Agency for Health Care Administration is directed to act as a clearinghouse of information on compassionate and palliative care plans and develop and implement a database for this information. LeadingAge Florida will continue to monitor this legislative proposal to ensure there is guidance on what to do if there are conflicts between POLST and other end of life documents and that faith-based organizations have the right to deny requests that are inconsistent with their religious and ethical beliefs with appropriate disclosure.

HB 85 by Rep. Fitzenhagen/SB 212 by Sen. Gaetz relating to Recovery Care Services allows for ambulatory surgical centers to treat a patient for 24 hours after admittance into the facility. Additionally, SB 212 requires ambulatory surgical centers, as a condition of licensure, to provide services to Medicare patients, Medicaid patients, and patients who qualify for charity care. HB 85 allows the creation in Florida of recovery care centers, where patients could stay up to 72 hours after surgeries and being discharged from an ambulatory surgical center or hospital.