

July 16, 2019

The Honorable Frank Pallone, Jr.
Chairman
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Greg Walden
Ranking Member
Committee on Energy and Commerce
2322A Rayburn House Office Building
Washington, DC 20515

Dear Chairman Pallone and Ranking Member Walden:

The undersigned organizations believe a fair and equitable independent dispute resolution (IDR) process is an essential component of any surprise billing solution and should be included in any final bill coming out of the House Energy and Commerce Committee to ensure the legislation is balanced and does not result either in unfair payments to physicians or unreasonable bills to health plans. We fully support the central goal of the No Surprises Act to protect patients from surprise medical bills when they unknowingly receive services from out-of-network providers in in-network facilities. We also support the provisions in the No Surprises Act that would ensure patients are only responsible for in-network cost-sharing in these situations, and that their cost-sharing count toward in-network deductibles and out-of-pocket maximums. We also agree that patients should be taken out of any payment disputes between physicians and insurers that arise from these situations.

However, once the patient is protected from surprise medical bills, it is equally important to ensure that the legislation does not create new imbalances in the private health care marketplace by undermining the ability of doctors to secure fair reimbursement for their services. The health insurance marketplace is already heavily consolidated. Instituting a federal government rate-setting scheme that allows private insurers to force discounted rates on physicians, hospitals and other health care providers based on their median 2019 in-network rates puts both network and non-network providers at a disadvantage and will result in sudden drops in reimbursement for emergency and nonemergency hospital-based care. This will create patient access problems, particularly in rural areas and other underserved populations that are already experiencing health care provider shortages. In fact, the California Department of Managed Health Care reports consumer access to care complaints have increased 48% since California passed its surprise billing law. There are also preliminary reports that California insurers are seeking to drive down in-network median payments by dropping providers from their network who are currently paid above the median.

The undersigned organizations believe that legislation should include a fair IDR process narrowly tailored to resolve payment disputes regarding noncontracted out-of-network care. Such a process should be set up to incentivize health plans to make a fair initial offer of payment for out-of-network care rendered to their customers and discourage physician bills that are outside of generally acceptable ranges. It also should encourage, rather than discourage, both parties to contract for in-network care. The process should be structured to include a range of factors to be considered in the case of an appeal; factors such as the complexity of the service rendered, the experience of the physician providing the service, the rate that physicians charge for the service in a geographic area, and insurance data from an independent source. We recommend the Committee look to the states for examples of where such appeals processes are working to resolve payment disputes in a manner both insurers and providers perceive as fair without negatively impacting patient access to hospital-based services or premiums.

The undersigned organizations look forward to working with you to forge a more balanced approach to best protect patients and their access to health care.

Honorable Frank Pallone, Jr.
Honorable Greg Walden
July 16, 2019
Page 2

Sincerely,

American Medical Association
American Academy of Allergy, Asthma & Immunology
American Academy of Dermatology Association
American Academy of Facial Plastic and Reconstructive Surgery
American Academy of Neurology
American Academy of Otolaryngology- Head and Neck Surgery
American Academy of Physical Medicine and Rehabilitation
American Association of Clinical Urologists
American Association of Hip and Knee Surgeons
American Association of Neurological Surgeons
American Association of Orthopaedic Surgeons
American Association of Public Health Physicians
American College of Allergy, Asthma & Immunology
American College of Cardiology
American College of Emergency Physicians
American College of Gastroenterology
American College of Legal Medicine
American College of Mohs Surgery
American College of Obstetricians & Gynecologists
American College of Osteopathic Internists
American College of Osteopathic Surgeons
American College of Physicians
American College of Radiology
American College of Surgeons
American Epilepsy Society
American Gastroenterological Association
American Medical Group Association
American Medical Women's Association
American Orthopaedic Foot & Ankle Society
American Osteopathic Association
American Psychiatric Association
American Society for Aesthetic Plastic Surgery
American Society for Clinical Pathology
American Society for Gastrointestinal Endoscopy
American Society for Surgery of the Hand
American Society of Anesthesiologists
American Society of Clinical Oncology
American Society of Echocardiography
American Society of Hematology
American Society of Neuroimaging
American Society of Neuroradiology
American Society of Plastic Surgeons
American Urological Association
American Academy of Ophthalmology
Association of American Medical Colleges
Association of University Radiologists
College of American Pathologists
Congress of Neurological Surgeons

Honorable Frank Pallone, Jr.
Honorable Greg Walden
July 16, 2019
Page 3

Medical Group Management
National Association of Medical Examiners
Renal Physicians Association
Society for Interventional Radiology
Society for Vascular Surgery
Society of Hospital Medicine
Society of Interventional Radiology
Society of Retina Specialists
Society of Thoracic Surgeons

Medical Association of the State of Alabama
Alaska State Medical Association
Arizona Medical Association
Arkansas Medical Society
California Medical Association
Colorado Medical Society
Connecticut State Medical Society
Medical Society of Delaware
Medical Society of the District of Columbia
Florida Medical Association Inc
Medical Association of Georgia
Hawaii Medical Association
Idaho Medical Association
Illinois State Medical Society
Indiana State Medical Association
Iowa Medical Society
Kentucky Medical Association
Maine Medical Association
MedChi, The Maryland State Medical Society
Massachusetts Medical Society
Michigan State Medical Society
Minnesota Medical Association
Mississippi State Medical Association
Missouri State Medical Association
Montana Medical Association
Nebraska Medical Association
Nevada State Medical Association
New Hampshire Medical Society
Medical Society of New Jersey
New Mexico Medical Society
Medical Society of the State of New York
North Carolina Medical Society
North Dakota Medical Association
Ohio State Medical Association
Oregon Medical Association
Pennsylvania Medical Society
Rhode Island Medical Society
South Carolina Medical Association
South Dakota State Medical Association
Tennessee Medical Association

Honorable Frank Pallone, Jr.
Honorable Greg Walden
July 16, 2019
Page 4

Texas Medical Association
Vermont Medical Society
Medical Society of Virginia
Washington State Medical Association
West Virginia State Medical Association
Wisconsin Medical Society
Wyoming Medical Society