

May 28, 2019

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

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

Dear Chairman Pallone and Ranking Member Walden:

On behalf of the Texas Hospital Association's more than 450 member hospitals and health systems, thank you for the opportunity to submit comments on the *No Surprises Act*, draft legislation to eliminate surprise billing of patients for medical bills.

THA applauds the committee for its thoughtful, bipartisan proposal to protect patients from unexpected medical expenses resulting from out-of-network care. THA long has supported work at the state level to ensure that patients are protected from these unexpected expenses and believes that eliminating patients' financial responsibility beyond known, required cost-sharing amounts for out-of-network emergency or unplanned health care services is fair and reasonable.

For years, THA has worked alongside policymakers to address this issue and supported legislation to expand the scope of balance bills that can be mediated through the Texas Department of Insurance. Texas hospitals consistently encourage hospital-based physicians to negotiate in good faith with the same payers that contract with the hospital. This legislative session, which just concluded on May 27, Texas hospitals were early and consistent supporters of bipartisan legislation to strengthen protections against surprise billing of patients. We believe that this legislation, Senate Bill 1264, can serve as a model for national legislation because it:

- Implements strong consumer protections by eliminating surprise billing of patients for emergency or unplanned out-of-network health care; and,
- Ensures hospitals and health plans can continue to negotiate a fair, appropriate and market-responsive reimbursement amount unhampered by artificial, government-set rate parameters.

As the committee continues this important work, we ask that members be:

- Mindful of the nuances and complexities involved in health plan contracting and payment;
- Cautious of not advantaging health plans to the disadvantage of hospitals and, ultimately, patients; and
- Aware that a one-size-fits-all approach and methodology will not work for hospitals and could impede patients' access to care when they need it.

Texas hospitals support a fair and balanced negotiation between health plans and hospitals for both network inclusion and for out-of-network payment. **Whether the process for determining out-of-network payment is arbitration or mediation, it is essential that a legislative solution not disrupt market-based negotiations or unfairly advantage health plans. Inserting government-set rate parameters into a private negotiation could disincentivize health plans from including hospitals as in-network providers and paying them fairly, ultimately limiting patients' access to care.** If plans would rather pay hospitals for an out-of-network claim because the government has set that payment amount lower than what would be paid for an in-network claim, they have little incentive to negotiate with hospitals to be in-network providers.

I would welcome the opportunity to discuss Texas' approach to solving the surprise billing problem as I believe it strikes the best balance of protecting patients from financial challenge, allowing private negotiations to continue unimpeded, and ensuring access to care. To schedule follow up, please contact Cameron Krier Massey, THA's federal representative, at 512/656-1716 or cameron@scoutGR.com.

Again, we thank you for your commitment to protecting patients and your serious work to improve access to care for all Americans.

Sincerely,



John Hawkins
Senior Vice President, Advocacy and Public Policy
Texas Hospital Association

CC: The Honorable Anna Eshoo
The Honorable Michael Burgess, M.D.