



Physicians Caring for Texans



July 17, 2019

The Honorable Pete Olson
Energy and Commerce Committee
U.S. House of Representatives
Washington, D.C. 20510

RE: HR 3630: The No Surprises Act of 2019

Dear Representative Olson,

We are writing on behalf of the nearly 53,000 members of the Texas Medical Association and your many physician friends and constituents in District 22.

Spurred by rapidly increasing out-of-pocket costs and rapidly shrinking insurance networks, Americans' anger over surprise medical bills is boiling over. Families, justifiably, are demanding relief. Washington, thankfully, is poised to act. Competing solutions abound. Congress must choose the right medicine.

The No Surprises Act as recently approved by the Health Subcommittee of the Energy and Commerce Committee, unfortunately, is the wrong medicine for our patients and the physicians who care for them. Its side effects are pernicious – and avoidable.

As the Energy and Commerce Committee begins markup on this legislation, we urge you to oppose HR 3630 unless and until it meets these key criteria.

- Takes the patient “out of the middle” of out-of-network surprise billing disputes between insurance companies and physicians, hospitals, and providers.
- Uses an independent dispute resolution system that does not give an unfair advantage to either side.
- Allows benchmarks to be identified by market forces via an independent, not-for-profit database – not government price controls such as the local median contracted commercial amount referenced in HR 3630 – to determine fair compensation for medical care delivered out of network, resulting in surprise bills.
- Requires a fair and defined initial payment from the insurance company to the physician or provider before the beginning of any dispute resolution process.
- Bases final payment amounts on clear factors such as the complexity of the case, the experience of the physician, and the rate that physicians charge for that service in that geographic area. The Texas law that passed earlier this year with strong bipartisan support is

a good example of a floor and ceiling that should be a possible consideration (floor = 50th percentile of contract rate; ceiling = 80th percentile of billed charges).

- Incentivizes health insurance companies to offer measurably adequate networks of physicians, hospitals, and providers.

If indeed the American states are the laboratories of democracy, the evidence is clear.

The New York model, as embodied in the Protecting People from Surprise Medical Bills Act, by Reps. Raul Ruiz and Phil Roe, MD, is an experiment that worked. Since the New York law passed in 2015, consumer complaints are down dramatically as is billing for services out of network. The process has also improved the health insurance networks with a 16% increase in the number of in-network physicians. Finally, the dispute resolution process has achieved fair and balanced results: 52% of the disputed bills were decided in favor of the insurer and 48% in favor of the physician or provider. In Texas, all the impacted groups signed off on legislation – physicians, health plans, consumer groups, hospitals, specialties, and providers – that incorporated many of the same principles.

The No Surprises Bill, unfortunately, more closely resembles the 2016 surprise billing law passed in California. That approach incentivizes health plans to reduce rates paid to in-network physicians or simply terminate long-standing contracts with medical practices. It also reduces incentives for the plans to maintain adequate physician networks. Since the law took effect, the California Department of Managed Care has reported a 48% increase in patient complaints about access to care. Patient access to physicians is diminishing there, and patient out-of-pocket costs will continue to increase along with insurance premiums.

In conclusion, TMA, the Harris County Medical Society, the Fort Bend Medical Society, and the Brazoria County Medical Society encourage Congress to adopt a model, such as New York's, that is proven effective in protecting patients from surprise medical bills and has resulted in better networks for health insurance consumers. We stand ready to assist you and your committee in this important endeavor.

Sincerely,



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