



February 24, 2017

The Honorable Deborah A. Armstrong
Chairwoman
New Mexico State House Health and Human Services Committee
2015 Dietz Place NW
Albuquerque, New Mexico 87107

Dear Chairwoman Armstrong:

The American Osteopathic Association (AOA) and the New Mexico Osteopathic Medical Association (NMOMA) are writing regarding HB 313. This bill enacts the Surprise Billing Protection Act. While we appreciate the bill's goals of protecting patients from unexpected medical bills, we are concerned that some aspects of the bill may lead to diminished access to quality, timely health care for patients.

The AOA represents nearly 130,000 osteopathic physicians (DOs) and osteopathic medical students, promotes public health, encourages scientific research, serves as the primary certifying body for DOs and is the accrediting agency for osteopathic medical schools. More information on DOs/osteopathic medicine can be found at www.osteopathic.org. NMOMA is a professional medical organization that represents over 250 osteopathic physicians in New Mexico.

This bill protects patients from a surprise bill for:

- Emergency health care services rendered by a nonparticipating provider;
- Unforeseen services rendered by a nonparticipating provider at a participating facility; and
- Services rendered by a nonparticipating provider upon referral from a participating provider.

The AOA and NMOMA appreciate the bill's requirement that insurers cover the services necessary to screen and stabilize a covered person in an emergency, regardless of whether the provider or facility is participating or nonparticipating with regards to the patient's health care plan.

We are concerned, however, with:

- Surprise billing restrictions that limit physicians' ability to receive appropriate payment for services delivered to patients that could lead to decreased access to care.
- Establishment of a binding arbitration process, which may force physicians to accept payment at participating provider rates and incentivize carriers not to contract with providers.

- Using in-network rates as a benchmark in arbitration, when those rates were never agreed to by the out-of-network provider.

We believe that:

- The inability of providers to establish or agree to contracted rates for services and receive payment in those amounts places an undue burden on physicians providing care to patients in need.
- Nonparticipating providers should be paid the “usual and customary rate” for similar services in the same geographic area.
- Nonparticipating providers should be allowed to submit a request for payment to a patient, along with the Payment Responsibility Notice below (in the same or substantially similar language), and accept payment if the patient elects to pay the balance:

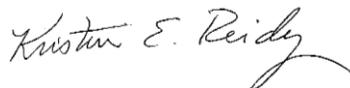
“The service[s] outlined below was [were] performed by a facility-based provider who is out-of-network with your health care plan. At this time, you are responsible for paying your applicable cost-sharing obligation – copayment, coinsurance or deductible amount – just as you would be if the provider is within your plan’s network. With regard to the remaining balance of this out-of-network bill, you have three choices: 1) you may choose to pay the balance of the bill; OR 2) you may send the bill to your health care plan for processing pursuant to the health carrier’s out-of-network facility-based provider remittances process or the provider mediation process required by Section 11. C. OR 3) you may rely on other rights and remedies that may be available in your state.”

The AOA and NMOMA appreciate your efforts to protect access to necessary and timely health services for New Mexico patients and thank you for your consideration of our concerns regarding HB 313. Should you need any additional information, please feel free to contact Nick Schilligo, MS, Associate Vice President, State Government Affairs at nschilligo@osteopathic.org or (800) 621-1773, ext. 8185.

Sincerely,



Boyd R. Buser, DO
President, AOA



Kristin E. Reidy, DO
President, NMOMA

CC: Mark A. Baker, DO, AOA President-elect
William J. Burke, DO, Chair, AOA Department of Governmental Affairs
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