

March 12, 2019

The Honorable Nancy D. Pelosi  
Speaker  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Kevin McCarthy  
Republican Leader  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Mitch McConnell  
Majority Leader  
United States Senate  
Washington, D.C. 20515

The Honorable Charles Schumer  
Democratic Leader  
United States Senate  
Washington, D.C. 20515

Dear Speaker Pelosi and Leaders McConnell, McCarthy, and Schumer:

We are a diverse group representing employees, large and small American businesses, health insurance providers, and brokers, who are working to make health care more affordable and accessible for every American. We applaud the recent, bipartisan attention this issue has received from members of both chambers. We ask that Congress take action this year to pass legislation that will protect patients from surprise medical bills and reign in out-of-control health costs.

We urge members of Congress to work together to pass legislation that would take meaningful steps to protect consumers by:

- Prohibiting doctors from sending a surprise medical bill to patients in cases of emergency, involuntary care, or instances where the patient had no choice in choosing their provider.
- Requiring facilities to inform patients of their doctors' network status and possible options for seeking care from a different doctor, but not require patients to consent to out-of-network care.
- Setting reimbursement rates that will not increase premiums or impact access for consumers by basing amounts on market rates determined by reasonable, contracted amounts paid by health insurance providers to similar doctors in a geographic area or a percentage of Medicare.
- Ensuring that these protections apply to all health plans, including self-funded plans governed by ERISA, so consumers are protected regardless of coverage type.
- Avoid the use of complex, costly and opaque arbitration processes that can keep consumers in the middle and lead to higher premiums.

As the cost of health care in the United States continues to rise, we are committed to finding solutions to protect the financial stability of American consumers and patients. A significant driver of high costs are exorbitant bills that millions of patients with comprehensive insurance coverage receive every year, demanding arbitrary fees for treatment by certain specialty medical doctors they did not seek out for

care and, often, never even knew treated them. In fact, at least one in five Americans receives a surprise medical bill every year.<sup>1</sup>

Hardworking Americans deserve to be protected from these surprise medical bills. Not only do these expenses affect patients who need care, they drive up premiums, making health care less affordable and accessible for everyone.

In many cases, the charges bear no relation to the actual cost of care or market rates. For example, out-of-network anesthesiologists bill, on average, 580 percent of the Medicare reimbursement rate.<sup>2</sup> For emergency medicine physicians, the charges can be even higher, with one study finding the average bill to be 798 percent what Medicare would pay.<sup>3</sup> These excessive bills distort health care markets, create tremendous financial hardship on families and drive up premiums for everyone enrolled in commercial coverage.

While some states have taken action to address the issue, the patchwork approach has left far too many consumers without protection, and surprise medical bills remain inexplicably high in many regions. For the more than 100 million Americans covered by a self-funded health plan, these state laws provide no protection and underscore the need for federal action. Additionally, some state laws have had negative unintended consequences that have exacerbated the problem of higher costs for consumers, businesses, and taxpayers.

By working together and putting the best interests of patients first, we can improve health and reduce costs. We look forward to working with you to advance common-sense solutions to this national problem.

Sincerely,

American Benefits Council  
America's Health Insurance Plans  
Associated Builders and Contractors  
Auto Care Association  
BlueCross BlueShield Association  
The Council of Insurance Agents and Brokers  
The ERISA Industry Committee  
Food Marketing Institute  
HR Policy Association  
National Alliance of Healthcare Purchaser Coalitions  
National Association of Health Underwriters  
National Business Group on Health  
National Retail Federation  
Pacific Business Group on Health  
Retail Industry Leaders Association (RILA)

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<sup>1</sup> Cooper, Z., & Morton, F. S. (2016). Out-of-Network Emergency-Physician Bills — An Unwelcome Surprise. *New England Journal of Medicine*, 375(20), 1915-1918

<sup>2</sup> Bai, G., & Anderson, G. F. (2017). Variation in the Ratio of Physician Charges to Medicare Payments by Specialty and Region. *JAMA*, 317(3).

<sup>3</sup> Cooper, Z., & Morton, F. S. (2016). Out-of-Network Emergency-Physician Bills — An Unwelcome Surprise. *New England Journal of Medicine*, 375(20), 1915-1918

Self-Insurance Institute of America (SIIA)  
Silicon Valley Employers Forum