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Testimony before the Senate Health Care Committee

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SB 891 Health Care Price Transparency

Chair Monnes Anderson and members of the committee, my name is Katy King and I'm here today representing OCEP, the Oregon Chapter of the American College of Emergency Physicians. OCEP is a medical society that has represented physicians specializing in emergency medicine since 1971 and its members share a commitment to improve emergency healthcare for all Oregonians.

OCEP supports the intent of this bill to provide transparency to consumers and to protect them from excessive bills. SB 891 requires health care facilities to post their prices publicly for the most frequent 100 outpatient and inpatient services and provide real-time estimates for consumers. However, some challenges are inherent in the system, especially in the Emergency Department.

The Emergency Medical Treatment and Active Labor Act (EMTALA) requires all Medicare-participating hospitals with emergency departments (EDs) to provide certain standards of emergency care, including screening; stabilization; and in certain cases, in co-ordination with another facility, transfer a stable or unstable patient for a higher level of care not available at the original receiving ED. The purpose of this law, which was enacted in 1986, is to ensure immediate help. Therefore, the law bars hospitals from delaying the provision of these services to inquire about either method of payment or insurance status. In other words, physicians are legally bound to provide emergency care to patients.

Posting prices of services in the ED may violate EMTALA if they discourage individuals from remaining for further evaluation. CMS is responsible for the enforcement of and issuance of guidance, regulations and policies pertaining to

EMTALA. In 2013, a statement from CMS region 4, provided some guidance in the instance of posting pain posters (prescribing pain medication in the ED. The intent of the pain posters was to deter inappropriate opioid drug seeking.) This was the cautionary response from CMS:

“Accordingly, the language regarding, ‘Prescribing Pain Medication in the Emergency Department,’ which you have provided and any similar language, which the hospital might choose to post in patient waiting rooms or treatment rooms, might be considered to be coercive or intimidating to patients who present to the ED with painful medical conditions, thereby violating both the language and the intent of the EMTALA statute and regulations.”

In the same regard, posting prices may cause an individual to defer or not seek care.

Other provisions of the bill may be problematic in the emergency department. Providing an estimate of the payment amount established within the consumer’s insurer and whether the facility or involved practitioners are part of the health plan’s network, may delay care, especially when an on-call specialist is needed for specialities such as plastic surgery, hand surgery or neurosurgery. The All Payers All Claims (APAC) database, maintained by the Oregon Health Authority, may be a better source of information in developing an estimate of charges for frequent services in the hospital setting.

Thank you for the opportunity to provide comment about SB 891.