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Testimony before the House Health Care Committee

April 5, 2017

HB 3418, Benchmarking provider reimbursement to Medicare

Chair Greenlick and members of the committee, my name is Dr. Hans Notenboom and I'm here today representing OR-ACEP, the Oregon Chapter of the American College of Emergency Physicians. OR-ACEP 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.

OR-ACEP opposes House Bill 3418 as written. This bill would would tie the reimbursement for the care of Public Employee Benefit Board members to a percentage of Medicare. Utilizing Medicare rates as a standard for determining fair payment for in-network or out-of-network care is a fundamentally flawed approach. Here's why:

- **First, it is important to note that Medicare amounts are politically derived for the purpose of reimbursing medical services for the elderly and disabled based on federal budgetary and regulatory constraints**. Such a methodology is not based on the actual costs of providing care, especially in emergency and rural settings. Nor does it take into account the financial burdens that providers of emergency services face, like disaster response preparedness, boarding and managing admitted patients in the ED until an inpatient bed is available, and in particular, maintaining excess physician staffing to provide surge capacity.

- **Medicare rates were never designed to represent the fair market value of healthcare services or to even cover provider costs**. Not only do Medicare rates fluctuate based on variables unrelated to the services provided, such as the federal budget, the rates have not even kept pace with general inflation costs.

- **Using such artificially low Medicare rates for determining out-of-network reimbursement, will take away any incentive for insurers to negotiate fairly with physicians and bring them in-network.** Rather, it will be much cheaper for insurers to keep physicians out-of-network and it gives insurance companies enormous leverage in contracting. Conversely, using an independent database of usual and customary charges avoids substituting actual marketplace medical economics with contrived, political decisions based merely on budgetary constraints.

- **Utilizing a politically derived funding mythology, like Medicare, promises to significantly impact the healthcare safety net in Oregon.** Consider that emergency physicians in Oregon, pursuant to the EMTALA mandate, do most of the indigent medical care and two-thirds of Medicaid acute care in emergency departments. As such, they have little to no operating margins and cannot significantly discount their commercial rates. A Medicare-based reimbursement scheme would destabilize the emergency department safety net and financially burden our most vulnerable hospitals, including our community and rural hospitals. Imposing Medicare rates as such could cause many hospital emergency departments to close, or cut back on the quality of care they can offer their communities. It may also force physicians to leave these communities which are often those with the greatest need. This could create the very real potential that patients will find themselves hours from the nearest hospital or emergency department, an unacceptable scenario.

Bringing clarity to health care costs and health insurance information

Insurance companies need to be transparent about how they calculate payments and provide fair coverage for emergency payments. Payments should be based on a reasonable portion or percentile of charges, rather than arbitrary rates that don't cover costs of care. State law should include acceptable or interim minimum benefit standards for provider services. These can be determined by using an appropriate percentile of the Fair Health Data Base (www.fairhealth.org) or similar independent and transparent data sources that may arise.

Thank you for the opportunity to testify. I'd be happy to answer any questions.