



PO Box 13391
Portland, Oregon 97213
Phone: (503) 890-8777
Email: emesberg@gmail.com
Website: www.ocep.org

Oregon Chapter, American College of Emergency Physicians (O.C.E.P)

House Health Care Committee

April 5, 2017

**HB 2339 Amendments on Balance Billing
OR-ACEP Statement for the Record**

Chair Greenlick and members of the committee, the **Oregon Chapter of the American College of Emergency Physicians** strongly supports the -4 amendments for HB 2339, balance billing ban. These amendments will take patients out of the middle of any dispute between insurance companies and providers, and assure fair payment based on an independent, non-profit, not-conflicted, transparent database such as Fair Health.

As you consider HB 2339, relating to balance billing and claims for reimbursement of out-of-network health care services, our growing coalition of physician organizations, including the **Oregon Medical Association** and the **Oregon Society of Anesthesiologists** urge you to put patient needs ahead of insurance company profits and reject the -2 and -5 amendments.

There are several critical flaws to the -2 and -5 amendments that would leave HB 2339 a more insurer-centric bill that would not adequately improve patient protections, nor would it ensure access to care.

While we are pleased that patients would be held financially harmless for unexpected out-of-network care – and would have cost-sharing applied to in-network rates -- most problematic is the proposal to tie the rate of reimbursement for services to a percentage of Medicare. It is important to note that Medicare payment rates are set by government officials based on budgetary constraints and the specific older population it serves, and were never designed to represent the fair market value of healthcare services or to even cover provider costs. In fact, there are certain health care services within such areas as obstetrics and pediatrics, for example, that are not even covered by Medicare and therefore would not be fairly reimbursement if tied to a percentage of Medicare rates.

Medicare is simply not an appropriate benchmarking standard and does not even keep 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. This could set a scenario where it would be much cheaper for insurers to keep physicians out-of-network. This in turn could jeopardize access to critical health services -- especially in rural areas of Oregon -- compounding already existing challenges in these settings.

Another important concern with the -5 amendments is that they tie emergency services to a complicated “Greatest of Three” rule (GOT). This approach is modeled after the federal rule which is currently subject to a challenge in court. Chief among our concerns is the fact that GOT rules are completely unenforceable. Additionally, Insurers determine their reimbursement levels and formulas in private. Therefore, there is no transparency and physicians would have no way to validate appropriate reimbursement levels.

Tying reimbursement to Medicare or applying the GOT Rule ignores the reality 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. And as such, they have little to no operating margins and cannot significantly discount their commercial rates. Additionally, forcing out of network providers to accept below market rates may mean that many specialists — surgeons, orthopedists, neurosurgeons and cardiologists, to name a few -- will stop taking emergency calls. These reimbursement schemes would likely have the unintended consequence of destabilizing Oregon’s all-important health care safety net.

As a coalition, our physicians support using an independent, conflict-free database to determine a minimum benefit standard to fairly reimburse providers, who would no longer be allowed to balance bill. The -4 Amendments provide for this, as well as for greater transparency for patients and physicians, and includes the important patient protections that are also included in the -5 amendments.

For this reason, we urge you to reject the -2 and -5 Amendments which do not go far enough in improving patient protections and ensuring access to care. Instead, we urge adoption of the -4 amendments which have broad support throughout the provider community and better protections for our patients.

Thank you for your attention to this important matter, and for your support of patients and the physicians who care for them!