



## POLICY & ACTION FROM CONSUMER REPORTS

February 9, 2017

Representative Mitch Greenlick, Chair  
House Committee on Health Care  
Oregon State Legislature

### Re: Support for HB 2339

Chair Greenlick and Members of the Committee:

Consumers Union, the policy and mobilization division of nonprofit Consumer Reports, writes in support of HB 2339 to protect consumers who seek care at in-network facilities from receiving surprise bills from a provider that did not participate in the health plan's network. Consumers Union has a national campaign to end these "surprise bills"<sup>1</sup> and has partnered with consumer organizations in many states to enact legislation that provides protection to consumers from these unfair practices. Over the past two years, six states have enacted such consumer protections, and this year at least a half dozen more have introduced similar bills.

A 2015 survey by the Consumer Reports National Research Center found that one in four Americans received a bill from a doctor they did not expect to be billed by. Of those who had surgery or were hospitalized in the prior two years at an in-network hospital, one in five received an unexpected bill from an out-of-network provider. The survey also found that the vast majority of Americans believe that if they go to an in-network hospital, any services they receive there will also be in-network.<sup>2</sup>

Sadly, the reality is very different. Consumers who do everything in their power to seek care in-network and avoid the unnecessary costs of out-of-network services often nonetheless find themselves saddled with "surprise" medical bills when, after the fact, they discover that the doctors performing the services at the in-network facility—such as anesthesiologists, emergency room doctors, radiologists and pathologists—are not participating in the network. The resulting costs to insured consumers who thought they would be covered can run in the thousands of dollars.

Consumers should not pay the price for the complicated contracting relationships among doctors, facilities, and health plans. Consumers with insurance should be able to go to an in-network facility and have confidence that their health insurance—for which they pay hefty premiums—will cover their care.

HB 2339 would ensure this protection by providing that consumers who get care at a participating facility will be responsible only for the in-network co-pays, co-insurance, and deductibles. They would also be protected from receiving bills from non-participating physicians

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<sup>1</sup> See Consumers Union's guide describing the problem and various state approaches. <http://consumersunion.org/wp-content/uploads/2015/11/SurprisebillsAdvocatesGuide.pdf>

<sup>2</sup> <http://consumersunion.org/wp-content/uploads/2015/05/CY-2015-SURPRISE-MEDICAL-BILLS-SURVEY-REPORT-PUBLIC.pdf>

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for the difference between the billed charges and what, if anything, the health plan reimbursed the doctor, known as “balance billing.” As introduced, this bill also establishes a reimbursement rate for non-participating physicians in this situation as the “reasonable and customary rate.” In our view, basing reimbursements on billed charges, for which there is no outside limit, creates inflated health system costs which would be passed along to consumers in premiums. Also, using billed charges as the basis would not create any incentive for physicians to join plan networks. We understand the Committee is considering an amendment that would rely instead on a percentage of the Medicare rate—a better approach Consumers Union supports since that is based on a publicly available, vetted standard.

By banning balance billing and holding consumers harmless from excessive charges by non-participating providers, HB 2339 protects Oregonians from the unfair financial burden of surprise medical bills and takes the consumer out of the middle of any billing disputes between plans and providers. Consumers Union, therefore, commends the author for this important consumer protection bill and respectfully urges your “aye” vote for HB 2339. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth Imholz", with a long, sweeping flourish extending to the right.

Elizabeth Imholz  
Special Projects Director