

THE CONNECTICUT COLLEGE OF EMERGENCY PHYSICIANS SUPPORTS HB-7299,  
"AN ACT CONCERNING REIMBURSEMENT RATES TO PHYSICIANS WHO  
PROVIDE EMERGENCY ROOM SERVICES TO MEDICAID RECIPIENTS."

Thank you for the opportunity to present my testimony on HB-7299. I am the past-President and current Legislative Chair of the Connecticut College of Emergency Physicians, the organization which represents over 400 Board-Certified specialists who have devoted their careers to being on the front line of emergency medical care.

Emergency Departments in the State of Connecticut provide around the clock medical services to our citizens. The nature of these services ranges from the mundane to life-threatening or fatal illnesses and injuries and everything in between. Provision of these services is labor intensive and quite expensive due to staffing and equipment requirements needed to be ready to care for emergency patients 24/7/365. It is also very difficult at times due to overcrowding and other stresses on the health care system in general and the emergency department in particular.

Federal law (EMTALA) requires that any patient presenting to the Emergency Department with a medical complaint be given a screening exam, stabilizing treatment, and appropriate follow-up or hospital admission as needed. Due to the large number of uninsured and underinsured patients, the financial strain of providing quality emergency care for all is becoming increasingly difficult. An area of particular concern is *post hoc* determination by both government and private insurers that the condition which was treated in the emergency department was "not an emergency" resulting in a down-coding or outright denial of payment. For this reason, the *prudent layperson* standard, by which the initial symptoms and not the final diagnosis become the basis for determination of appropriateness of seeking care in the emergency department, has been in effect for over a decade. Unfortunately prudent layperson is under indirect attack and already inadequate reimbursement for emergency care is being further eroded. Using information from my previous institution, Yale New Haven Hospital as an example of what is happening all around the state, I would like to make the following three observations concerning difficulties we are having with the state Medicaid program and recurrent findings by its reviewers that we consider to be in error:

1. Medicaid inappropriately bundles payment for professional and facility fees for emergency services. In the normal course of business, a trip to the emergency department results in at least two bills. The first is the hospital bill which covers the expenses related to having an emergency department which is staffed with nursing and ancillary personnel and equipped to receive emergency patients. The second is a bill for professional fees of the physician taking care of the patient. Even though this is standard procedure around the country, Connecticut Medicaid has determined that only the hospital fee will be paid and it is up to the hospital to then pay the physician's fee out of this sum. At Yale New Haven, this results in an annual loss of approximately \$200,000 that should have been paid by Medicaid as separate professional fees. The same phenomenon is occurring at other hospitals around the state. It is curious that separate billing from other physicians such as radiologists and pathologists for their services related to the same visit are

fully covered. Only emergency physicians are required to go begging to the hospital for fair reimbursement of their services.

2. Medicaid will not pay professional fees for emergency services to patients who are subsequently admitted to the hospital. Imagine the following hypothetical scenario: A 7 year old boy who is covered by Medicaid is struck by a car while crossing the street. He is brought to the ED in critical condition with head and abdominal injuries, lacerations, and broken bones. After three hours of intensive evaluation, stabilization, wound repair, consultation with other specialists, etc, the boy is finally able to go upstairs to be admitted to intensive care. The fee for the services of the emergency physician is \$700. The reimbursement from Medicaid is ZERO. This is blatantly unfair and perhaps illegal. At just one hospital, the annual loss for this refusal to reimburse is \$150,000.
3. Medicaid reviewers conduct audits of sample charts which frequently result in down-coding of the level of service. The resulting amount of money which is presumed to have been overcharged is then extrapolated to all of the charts with the same diagnosis resulting in a large sum which is owed to Medicaid. On appeal, these charts are reviewed by nurse-bureaucrats who invariably agree with the Medicaid auditors. We are of the opinion that the appeal process is flawed in that the reviewers are not qualified to judge the many factors which enter into the original coding decisions. We feel review by at least one qualified, practicing emergency physician should be a mandatory part of the appeal process, particularly when the findings of the audit are then extrapolated to other charts which have not been audited.

In summary, we support HB 7299 because it prohibits the practice of bundle billing of hospital and emergency physician services and rightly so. We have serious reservations about the opening provision of the bill which directs the commissioner to establish "criteria for defining emergency and nonemergency visits to hospital emergency rooms." Such that "all nonemergency visits to hospital emergency rooms shall be paid at the hospital's outpatient clinic services rate." This flies in the face of the prudent layperson standard that has been the basis for appropriateness of emergency department visits for over a decade. There is no justification for downgrading a 2 a.m. visit to a clinic rate because no clinic is open at 2 a.m. The cost to the hospital for being able to provide that service at that time is the same no matter what the Medicaid program thinks the fee should be, and even at the current emergency level rate the reimbursement does not cover the cost of providing the service.

We therefore support language prohibiting bundle billing of hospital and emergency physician fees by Medicaid but oppose any attempt to weaken the consistent application of the prudent layperson principle.

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Committee.