

# Insurance and Real Estate Committee

## SENATE FAVORABLE REPORT

**Bill No.:** SB-323

AN ACT CONCERNING SURPRISE BILLING AND COST SHARING FOR HEALTH CARE SERVICES PROVIDED BY OUT-OF-NETWORK PROVIDERS

**Title:** AT IN-NETWORK FACILITIES.

**Vote Date:** 3/10/2020

**Vote Action:** Joint Favorable

**PH Date:** 3/5/2020

**File No.:**

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### **REASONS FOR BILL:**

The bill seeks to expand the definition of "surprise bill" to include emergency services and nonemergency services, and to prohibit health carriers from charging out-of-network cost sharing for certain health care services provided by out-of-network health care providers at in-network facilities. The intent is to protect patients from surprise or unexpected medical service charges.

### **RESPONSE FROM ADMINISTRATION/AGENCY:**

[Ted Doolittle, Healthcare Advocate, Office of the Healthcare Advocate](#): Mr. Doolittle states that this bill would eliminate the pricing disparity between emergency and non-emergency services provided by out-of-network providers by subjecting emergency services to the statute's surprise bill provision. He further states that the bill would eliminate out-of-network providers' ability to inflate their 'usual, customary and reasonable rates' thereby increasing payments received from carriers, which costs are ultimately borne by the consumer.

### **NATURE AND SOURCES OF SUPPORT:**

[Lesley Bennett, Resident, Stamford CT](#): Ms. Bennett submitted testimony in support of the bill. She states that patients and their families have no way of knowing if a physician or healthcare provider working in an in-network hospital or health facility are part of the network or an out-of-network provider until they receive a surprise bill. She also states that this bill would expand the definition of surprise billing to include emergency and non-emergency health care services and prevent health insurers from charging covered patients with copays for out-of-network providers seen at in-network facilities.

**The Connecticut Association of Health Plans (CTAHP)**: The CTAHP submitted testimony in support of the bill. They believe this bill provides important consumer protections in the health care industry. They state that the current law provides a financial incentive for emergency room practices to sever affiliations with hospitals and operate on a contractual basis instead because they are allowed to bill higher FAIR health rates. They further state that both health plans and consumers are required to pay the extra differential and high deductible health plans respectively.

**Joel Surdykowski, Resident, Hamden CT**: Mr. Surdykowski submitted testimony in support of the bill. He states that he supports the state's efforts to control drug costs and make health care more affordable and accessible.

#### **NATURE AND SOURCES OF OPPOSITION:**

**Michael Aronow, President, MD-Connecticut Orthopedic Society**: Dr. Aronow submitted testimony in opposition to the bill on behalf of the MD-CT Orthopedic Society. They believe the current provisions from Public Act 15-146 should be maintained. They oppose this bill because it gives insurance companies the latitude to determine their own reimbursement structure for out-of-network physicians without using fair and unbiased benchmarking data to set reimbursement rates for out-of-network physicians. They also believe this bill would encourage insurers to decrease the number of out-of-network physicians instead working to limit them which would adversely affect patient access to health care.

**Earl Bueno, President, Connecticut State Society of Anesthesiologists (CSSA)**: Dr. Bueno submitted testimony in opposition to the bill. He believes that maintaining an adequate network for all providers and all services is the key to solving the problem of surprise bills. He states that if all insurers were required to have adequate networks and regulators held them accountable, there wouldn't be situations where patients are surprised to learn they had or could be treated by an out-of-network provider. He believes a mechanism must be created to determine fair payment in instances where a provider or service is out-of-network.

**Connecticut Society of Plastic Surgeons (CTSPS)**: The CTSPS submitted testimony in opposition to the bill. They state that it is their understanding that if this bill passes as currently drafted, many plastic surgeons will be unable to continue seeing patients in the emergency room which will reduce the quality and accessibility of care throughout Connecticut. They believe that this will purports to fix a problem which does not exist in Connecticut. They opine that patients already have access to highly qualified and compassionate physicians. They state that there is already legislation on the books in the state that protects patients from surprise billing and other predatory practices. They believe this bill is a gift to the CEOs and executives of large insurance carriers because it will allow them to arbitrarily and unilaterally set fees for emergency room care.

**The Emergency Department Practice Management Association (EDPMA)**: The EDPMA submitted testimony in opposition to the bill. They believe that this bill poses a significant threat to Connecticut's network of emergency departments, especially in rural and vulnerable neighborhoods because it would significantly reduce the emergency physician reimbursement from commercial insurance companies by replacing the current out-of-network minimum payment standard with a newly easily-manipulated standard (the in-network rate). They state that it is unclear which in-network rate would serve as the standard.

They further state that this standard is easily manipulated by insurance plans, especially in emergency care.

**Gregory Shangold, President-Elect, Connecticut State Medical Society**: Dr. Shangold submitted testimony in opposition to the bill on behalf of the Connecticut State Medical Society. They believe that the bill removes any incentive for health insurers to enter into or even offer fair contracts or fair payment for services rendered to physicians. They share that Connecticut already has a statute (Public Act 15-146) in place that is a proven solution to the surprise billing issue and a model for many other states.

**Kathleen Silard, President & CEO, Stamford Health**: Ms. Silard submitted testimony in opposition to the bill. She states that the bill will alter the 2015 statute that deals with out-of-network charges which has worked well for almost four years. She believes the bill would upend the balance created by 2015 law.

**Connecticut Hospital Association (CHA)**: CHA submitted testimony in opposition to the bill. They believe that the bill would substitute a new method for determining provider payment in place of one of the three reimbursement methodologies in the current 2015 law which would upend the balance created in the original law, which recognized the critical life-saving work of emergency department physicians. They opine that since the state already has a process currently in place to address the issue of surprise billing from 2015, no changes should be made until there is an outcome from the federal discussions on the matter and then reevaluate whether changes are needed in Connecticut's statutes.

**Reported by: Justin Boutin, Assistant Clerk**

**Date: March 19, 2020**