



December 9th, 2019

Wayne A. Smith
President & CEO

The Honorable Christopher A. Coons
****VIA ELECTRONIC MAIL****

Re: Surprise Billing Legislation

Dear Senator Coons,

*Alfred I. duPont Hospital
for Children*
Jay Greenspan, MD,
Interim Chief Executive
of Nemours Delaware
Valley Operations

Bayhealth
Terry Murphy,
President & CEO

Beebe Healthcare
Rick Schaffner
Interim CEO

ChristianaCare
Janice E. Nevin,
M.D. MPH
President & CEO

Nanticoke Health Services
Penny Short, RN, BSN
President & CEO

Saint Francis Healthcare
Daniel Sinnott
President & CEO

*Delaware Healthcare
Association*
Wayne A. Smith
President & CEO

Your Delaware hospital providers are concerned with the announced agreement between the Senate HELP Committee and the House Energy and Commerce Committee on Surprise Billing legislation designed to be attached to an end of year funding bill.

The bill, as we understand its major components, would threaten network adequacy – and thus access to care, particularly in the more rural and underserved areas of our state.

Sponsors have indicated the bill will include both a benchmark rate and an independent dispute resolution process (also known as arbitration) for claims over a certain amount. We also understand that an arbitration minimum threshold will be part of the bill.

An arbitrary rate gives insurers an incentive to remove hospitals from their networks and force artificially low reimbursement rates, which limits access. Moreover, such proposals would provide a huge windfall to commercial insurance companies at the expense of the nation's community hospitals.

*We ask you to **reject legislation that sets rates** or contains rate setting mechanisms as the resulting harm in network adequacy will imperil access for many Delawareans.*

Shielding patients from surprise bills is of great importance and we support market-oriented approaches to achieve this objective. Our position, which echoes that of the American Hospital Association, is to:

- Protect patients from surprise bills that they may incur as a result of unexpected gaps in insurance coverage or medical emergencies.
- Allow providers and insurers to negotiate payment rates for services provided after the patient is protected and oppose rate setting.
- Reject provisions that are not related to surprise billing, including unworkable price transparency proposals and policies that impede provider and health plan contracting.



The second point, allowing insurers and providers to negotiate payment rates while taking the patient out of any surprise billing incident, achieves the great objective of protecting patients from surprise bills *without harming some of those same patients* who would face reduced access to care in any system where insurers can rest on minimum rates. Resolution to surprise billing incidents needs to allow for a market negotiated settlement between providers and insurers.

I would like to speak with you regarding this issue and the likely upcoming vote. My assistant will contact your office to try and establish a convenient time for you to briefly discuss this important issue with me.

Thanks. Hope you are well and look forward to speaking.

Sincerely,

A handwritten signature in blue ink that reads "Wayne A. Smith".

Wayne A. Smith
President & CEO