

NEW HAMPSHIRE SOCIETY OF PATHOLOGISTS

February 1, 2023

Senator Regina Birdsell
Chair, Health and Human Services Committee
New Hampshire State Senate

Re: Testimony in OPPOSITION to SB 173 (Relative to Surprise Medical Bills)

Dear Chairwoman Birdsell:

On behalf of the New Hampshire Society of Pathologists (NHSP), I am here today in opposition to Senate Bill 173.

This legislation would amend New Hampshire Chapter Law 356 (enacted in 2018), which governs out-of-network balance billing and payment. The existing New Hampshire law protects patients from out-of-network balance bills and conforms to the federal "No Surprises Act" that requires financial protections for patients as currently encapsulated within New Hampshire law.

On December 22, 2021, correspondence to the New Hampshire Insurance Department from the federal government (HHS and CMS) definitively recognized the New Hampshire law as a 'specified state law' and determined that it met all federal requirements as follows:

"Based on the survey response and CMS communications with the New Hampshire Department of Insurance staff, CMS understands that NH RSA Title XXX 329:31- b(III) is a specified state law that will apply for purposes of determining the out-of-network rate with respect to anesthesiology, radiology, emergency medicine, or pathology services furnished to individuals in a managed care plan in New Hampshire by a health care provider in a hospital or ambulatory surgical center that is in-network."¹

Based upon this official recognition, we see no compelling public policy need to amend the law. However, if the legislature still wishes to amend the law, we strongly urge opposition to the language as proposed.

Of concern, the proposed language in SB 173 would negate the negotiated agreement of the 2018 law and instead confer upon the Commissioner of Insurance, unilateral, unfettered discretion to determine an out-of-network rate based upon the Commissioner's determination of what is "in the public interest." There is not one state in the United States that has such a comparable state law to govern out-of-network rates for physicians.

Thus, we urge the legislature to retain the current standard — that was negotiated in 2018 — directing that the Commissioner render an administrative determination on out-of-network rates and payments using the current standard in New Hampshire law that expressly requires such amounts to be

¹ Correspondence to the Honorable Christopher T. Sununu Governor of New Hampshire, et al, from Ellen Montz, Director Center for Consumer Information and Insurance Oversight, Department of Health and Human Services, Centers for Medicare and Medicaid Services, December 22, 2021. P 5.

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"commercially reasonable." To date, we are not aware of concerns or problems that have manifested as a result of the current law to necessitate the language contemplated in SB 173.

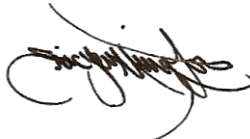
We urge the legislature to oppose SB 173 and instead retain New Hampshire's 2018 out-of-network law in its current form.

Thank you for your courtesies and consideration of our position.

Sincerely,



Carol XiaoYing Liu, MD, FCAP
President



Eric Yen-Ming Loo, MD, FCAP
Society Political Advisor