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December 5, 2019

The Honorable Mitch McConnell
Majority Leader
United States Senate

The Honorable Chuck Schumer
Minority Leader
United States Senate

The Honorable Nancy Pelosi
Speaker of the House
United States House of Representatives

The Honorable Kevin McCarthy
Minority Leader
United States House of Representatives

Dear Leader McConnell, Leader Schumer, Speaker Pelosi, and Leader McCarthy:

As Congress continues its efforts to protect patients from surprise medical bills, we hope that you recognize the potentially devastating unintended consequences that certain proposals under consideration could have on smaller and independent physician practices such as ours, and urge you to ensure a thoughtful approach as the various proposals are brought together.

Smaller and independent physician practices provide health care to thousands of communities across our country, often serving as the only means of access in rural and underserved areas. As such, we see first-hand the impact surprise billing can have on our patients, and therefore strongly share your commitment to taking patients out of the middle of billing disputes that can arise when insurers do not contract with physicians. However, we are also very concerned that the wrong solution to surprise billing will severely impact small practices by eliminating what few incentives remain for insurers to negotiate fairly with us, therefore driving further consolidation within health care, and triggering ensuing cost increases.

Our [XXX] groups are smaller and independent practices that provide care for millions of patients each year in small rural communities and large urban centers alike. As small and independent businesses, we also play a vital role in the economy of our nation and the communities in which we operate, providing thousands of jobs and local economic stability. Further, just like many other small and independent businesses regardless of sector, we face challenges such as providing benefits for our employees, meeting overhead costs, and overall ensuring our longevity.

We have worked relentlessly to secure in-network contacts with as many of our local plans as we can. However, smaller physician groups are particularly disadvantaged when it comes to contracting with health plans. This is an issue that is being further aggravated as insurance companies consolidate, leaving only a single insurer to dominate the market in a number of states. Therefore, insurers at best offer us only drastically undervalued “take-it-or-leave-it” contracts that will not even cover the costs of our overhead—while others ignore altogether our inquiries to be part of health plan networks. The wrong approach to addressing surprise bills will only further empower insurers to weaken our practices.

Therefore, we urge that any federal solution to surprise billing must include a reasonable initial payment. Any mechanism that ties out-of-network payment to a median in-network benchmark will allow insurers to forego entirely contracting with physicians because they will have access to a discounted contract rate (the median in-network) *without* needing to provide us with any corresponding benefits of contracting in exchange. Without any real enforceable network adequacy protections for federally-regulated plans, insurance networks will only continue to narrow, preventing patients in many areas from being able to access care at all, especially in rural and underserved communities.

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As a result, we strongly urge you to ensure that any surprise billing legislation that comes to the floor includes a strong, accessible, timely and efficient independent dispute resolution (IDR) mechanism. Based on successful state models, it is clear such an approach when used federally can eliminate surprise bills, reduce health care costs, and ensure fair and equitable contracting dynamics between insurers and physicians without adding undue burdens or costs to taxpayers.

To be accessible to small physician practices, this IDR mechanism should not be restricted to claims above a qualifying dollar amount as some proposals in Congress have sought to do. Recent informal estimates calculated by the Congressional Budget Office (CBO) have demonstrated that eliminating or at least significantly reducing a qualifying threshold for IDR would have little to no impact on scoring at all. Even if a so-called “batching” mechanism is added to allow similar claims to be grouped together to reach a dollar threshold, many of us lack the necessary patient volume to even reach that level. Moreover, there is a significant range across our specialties in the dollar amounts of a typical claim, spanning from under a hundred dollars to thousands, further complicating any effort to develop a “one-size-fits-all” threshold.

Again, we strongly urge you to consider how these federal policies currently under consideration may disproportionately impact small physician groups and the care we provide to your constituents. We are deeply concerned that the wrong approach will ultimately drive many of us out of the market entirely, which will drive up health care costs as more smaller practices will be purchased by hospital systems and others, leading to increased consolidation. Studies have shown that if this consolidation happens, health care costs could increase by as much as 30 percent¹. We firmly believe, therefore, that an appropriate policy must be crafted that keeps costs contained, preserves access to care for patients, and will not disrupt contracting dynamics between physicians and insurers who attempt to negotiate in good faith.

We appreciate the opportunity to share our concerns, and thank you once again for your efforts to protect patients.

Sincerely,

[Group Name] [City, State]

[Group Name] [City, State]

[Group Name] [City, State]

[Group Name] [City, State]

[Group Name] [City, State]

¹ [Examining the Impact of Health Care Consolidation](#); Martin Gaynor, E.J. Barone University Professor of Economics and Health Policy, Heinz College at Carnegie Mellon University, February 14, 2018.