American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

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May 17, 2019

The Honorable Bill Cassidy
United States Senate
520 Hart Senate Office Building
Washington, DC 20510

The Honorable Michael Bennet
United States Senate
261 Russell Senate Office Building
Washington, DC 20510

The Honorable Lisa Murkowski
United States Senate
522 Hart Senate Office building
Washington, DC 20510

The Honorable Maggie Hassan
United States Senate
324 Hart Senate Office Building
Washington, DC 20510

The Honorable Todd Young
United States Senate
185 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Tom Carper
United States Senate
513 Hart Senate Office Building
Washington, DC 20510

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Dear Senators:

On behalf of the American College of Emergency Physicians (ACEP) and our 38,000 members, ACEP appreciates your continued work to protect patients and their families from unexpected high medical bills through introduction of the STOP Surprise Medical Bills Act of 2019. ACEP remains committed to the goal of improving price transparency for our patients in a constructive and substantive manner, and we thank you for including us in your efforts over the past year to develop this legislation.

Patients should be left out of the middle of billing disputes that can sometimes arise between insurers and non-contracted providers. While we appreciate your legislation does not use a so-called "bundled payment" or network-matching approach, and instead uses loser-pays, baseball-style arbitration for resolving such disputes, we are very concerned that unlike in the successful New York model, it directs the arbiter to only consider insurer-directed in-network rates for comparable services in the same geographic area, while specifically prohibiting any consultation of charges.

Narrowed networks by insurers are already a significant problem in emergency medicine, and we are concerned that this guideline for the arbiter will only further encourage them to drop long-standing contracts in order to drive down the in-network rates being consulted. As well, no methodology or data source is specified for the arbiter to use in consulting such in-network rates. In order to ensure transparency, the legislation should stipulate use of an objective, not-for-profit, independently owned and operated database (of which FAIR Health is one example). Lastly, we have strong concerns that the legislation as drafted allows insurers to include the costs of arbitration in the clinical services component of the medical loss ratio (MLR), rather than in the administrative component. This would allow insurers to essentially write-off the administrative costs of going to arbitration, and without any such corresponding protection for providers, will further tilt this process in the insurer's favor.

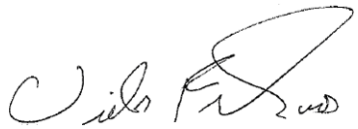
We are, though, very pleased that the legislation will now recognize deductibles as cost-sharing for emergency care (building on current law's copays and coinsurance), so that patients' cost- sharing will truly be no higher for out-of-network emergency care than if

that care had been provided in-network. When facing an emergency, patients or their family members do not have time to try and figure out where their care will be in-network, so they should not be punished financially for being unable to do so. As well, we appreciate the bill's requirement that insurers print deductible amounts on each insurance card. While a simple step, this can help patients better understand the limits of their insurance coverage and reduce the surprise when they later get a bill. We also appreciate that your legislation requires insurers to pay directly to the provider any amounts owed. While this direct payment does not include the patient's cost-sharing responsibilities (which are a significant source of uncollected debt for emergency providers, given EMTALA's restriction about collecting patient cost-sharing in advance), it would provide an incremental step towards taking the patient further out of the middle.

Once again, thank you for your leadership on this important issue. ACEP looks forward to continuing to work with you in an effort to protect patients from unanticipated medical costs and improving the bill as it continues to move through the legislative process.

Should you have any questions or require any further information, please do not hesitate to contact Brad Gruehn, ACEP's Congressional Affairs Director, directly at (202) 370-9297 or at bgruehn@acep.org.

Sincerely,



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ACEP President