



**Testimony of Miranda Motter
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**House Finance
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Chairman Oelslager, Vice Chair Scherer, Ranking Member Cera and members of the House Finance Committee, thank you for the opportunity to offer testimony in support of House Bill 388 (HB 388), legislation that will protect Ohioans from surprise out of network bills and surprise premium bills.

I am Miranda Motter, the President and CEO of the Ohio Association of Health Plans (OAHP), which is the state's leading trade association representing the health insurance industry. OAHP's member plans provide health benefits to more than 9 million Ohioans through employer-sponsored coverage, the individual insurance market, and public programs such as Medicare, Medicaid and the Federal Insurance Marketplace. OAHP's top priority is ensuring Ohioans have access to affordable, quality health care.

We believe HB 388 is a significant and necessary step toward addressing the unsustainable, ever increasing costs of health care for Ohioans.

What is surprise billing? A surprise bill is an unexpected bill a patient receives from an out-of-network doctor after receiving care in an emergency room or in a hospital that's *in* the patient's insurance network. Because *the doctor* is *out* of network, he or she is free to charge whatever he or she wants to charge. And, because that patient didn't have a chance to choose the out of network care provider, he is she is left with a very expensive, highly inflated surprise medical bill.

Data shows that unanticipated out of network treatment has occurred in roughly 1 in 5 emergency visits¹ and unanticipated out of network care has occurred in 1 in 10 elective inpatient visits in an in-network hospital.² As we've talked to policymakers, stakeholders, interested parties about this issue, almost everyone has a story or a person experience that involves a surprise medical bill.

Why is this happening? Insurers negotiate prices with in-network providers to keep health care costs low while guaranteeing a flow of patients for providers. But certain doctors – such as anesthesiologists, radiologists, pathologists, and emergency room doctors – are able to attract and

¹ <https://www.nejm.org/doi/full/10.1056/NEJMp1608571>

² <https://www.healthaffairs.org/doi/10.1377/hlthaff.2016.0970>

are “guaranteed” a steady volume of patients while staying *out* of network. This means they can (and do) charge patients whatever they want – sometimes more than 5 times the Medicare³ rate.

Recent studies have document average out of network charges for these ancillary out of network providers as being⁴:

- Anesthesiologists - **5.8x** the Medicare rate
- Radiologist - **4.5x** the Medicare rate
- Pathologists - **4x** the Medicare rate
- Emergency medicine physician - **4x** the Medicare rate

Non-Traditional Stakeholders Are Involved. This problem appears to be further exacerbated by the involvement of private equity and investment companies. Recent reports reveal that a major force behind those who oppose banning surprise medical bills in Congress are investors in private equity and venture capital firms. As hospitals are looking to trim costs, they are outsourcing these ancillary services to management firms backed heavily by private equity and venture capital firms. According to 2014 data from Merritt Hawkins, about 65% of U.S. hospitals contract out their emergency room staffing and management. Private investors understand the high profit margins and are pushing hard to defeat legislation in Congress to fix this problem. Last month, U.S. House leaders (Energy and Commerce Chairman Frank Pallone, D-N.J., and ranking member Greg Walden, R-Ore.) launched an investigation into private equity firms that own physician-staffing companies to determine whether they use out-of-network billing as a strategy to drive up their pay rates.⁵ A couple of weeks ago, The Hill reported that Physicians for Fair Coverage spent \$4.1 million lobbying on surprise medical billing.⁶

More and more Ohioans are receiving surprise bills in this broken market and private equity investments appear to be impacting behavior.

Ohioans Want to Pay LESS for Health Care. Nearly 8 in 10 Americans across all political parties, support legislation to protect individuals from medical bills.⁷

³ <https://jamanetwork.com/journals/jama/fullarticle/2598253>

⁴ https://www.ahip.org/wp-content/uploads/surprise_billing_issue_brief_2019.pdf

⁵ <https://khn.org/news/investors-deep-pocket-push-to-defend-surprise-medical-bills/>;
<https://www.nytimes.com/2019/09/13/upshot/surprise-billing-laws-ad-spending-doctor-patient-unity.html>;
<https://www.politico.com/story/2019/09/13/health-groups-dark-money-hospital-bills-legislation-1495697?cid=apn>;
<https://townhall.com/columnists/devonherrick/2019/09/30/dark-money-fights-to-preserve-surprise-billing-n2553909>; <https://www.pionline.com/washington/private-equity-firms-investigated-house-leaders-over-surprise-medical-bills>

⁶ <https://thehill.com/policy/healthcare/466756-doctors-coalition-funded-by-private-equity-spends-4-million-lobbying-on>

⁷ https://khn.org/news/legislation-to-end-surprise-medical-bills-has-high-public-support-in-both-parties/?utm_campaign=KHN%3A%20First%20Edition&utm_source=hs_email&utm_medium=email&utm_content=76753922&hsenc=p2ANqtz-5-ApVJKhrXV2qHfkE8pH152iTa6odGlsEM24cmZPbKsyc3m_JrygviihroqEcEVKsFKcTTnMEAGRW8g0NaiKaNWAva&hsmi=76753922

With medical debt as the number one source of personal bankruptcy filings in the United States⁸, protecting consumers from surprise out-of-network costs has been a top priority of OAHP. An Ohio solution must provide end-to-end protection – protecting Ohioans from both surprise out-of-network bills and surprise premium bills. We believe Ohioans should be taken out of the middle and protected from balance billing. We also believe out-of-network doctors should be paid a commercially reasonable rate. We don't believe Ohio should codify “surprise bills” by allowing out-of-network providers to charge (or balance bill) the purchaser of health care whatever he or she wants. That will not solve the problem; it will only mask it.

I want to take a few minutes to address a couple of issues relative to the approach HB 388 uses to solve the problem.

Impact on Access and Networks. Some have argued that using a market-based/commercially reasonable rate will cause doctors to leave the state or cause more doctors to leave networks. We haven't seen any evidence of this type of behavior in other states that have implemented laws similar to HB 388. In fact, data appears to show the opposite. For example, California enacted a surprise billing law in 2017 that requires out-of-network doctors to be reimbursed using the greater of the in-network rate or 125% of Medicare. A recent study shows that in-network specialty doctors in California have actually increased since 2017.⁹

New York is Better. Some have argued that Ohio should adopt a New York approach – requiring payment of a percentage of billed charges and baseball-style arbitration. Advocates of a New York approach have argued that New York's law has saved consumers \$400 million. Third-party health policy experts, however, dispute that premise and have stated that the “[s]tate's experience has shown limited relief for patients.” Here are a couple of facts from the Brookings Institution's October 24 report that support this fact:¹⁰

- “Arbiters are told to focus on the 80th percentile of those rates, an amount higher than what 80% of doctors charge for that procedure.” In New York, 80% of bill charges equates to:
 - Emergency medicine - **3.8x** the in-network rate
 - Radiology - **3.6x** the in-network rate
 - Pathology - **3.4x** in the in-network rate
- “On average, arbitration decisions have been 8% higher than that 80th percentile mark.”
- “The number of bills undergoing arbitration went from 115 in 2015 to 1014 in 2018.”
- “Insurers and doctors won about the same number of cases, and in 2018 more cases seemed to go in the provider's favor. Consumers appeared to lose either way. That's because even when the insurance plan won, it was on average only 11% less than the 80th percentile ...”

⁸ <https://www.usatoday.com/story/money/personalfinance/2017/05/05/this-is-the-no-1-reason-americans-file-for-bankruptcy/101148136/>

⁹ <http://www.dmhc.ca.gov/Portals/0/Docs/DO/ab72.pdf?ver=2019-03-04-154101-503;>
<https://www.ajmc.com/contributor/america-s-health-insurance-plans/2019/08/can-we-stop-surprise-medical-bills-and-strengthen-provider-networks-california-did>

¹⁰ <https://www.brookings.edu/blog/usc-brookings-schaeffer-on-health-policy/2019/10/24/experience-with-new-yorks-arbitration-process-for-surprise-out-of-network-bills/>

still about 3 times as much as a patient would pay if the doctor were in-network. Those extra costs get passed on in the form of higher premiums.:

Ohio is not New York and we should be cautious to adopt a model from a state with the second highest health care expenditures in the country and where health care spending per person is about 20% higher than the national average.¹¹ We don't believe Ohioans want to pay New York health care costs.

House Bill 388 Provides Needed Relief to Many Ohioans. OAHP supports HB 388 because we believe it will provide end-to-end protection to Ohioans from surprise out of network bills and surprise premium bills. We believe Ohioans need relief from spiraling health costs and cannot afford to pay MORE for health care. We believe policymakers are well positioned to make an impact on the everyday lives of Ohioans. OAHP stands ready to share our experience, lend expertise and advance a solution that will work towards driving down health care costs in our state.

Thank you for the opportunity to provide comments here today. Health plans understand first the pressures Ohio's employers, individuals and purchasers of health care are experiencing. Health care costs are going up and as a result health insurance costs are rising. I applaud House leadership, Rep. Holmes, and the Ohio House for tackling this issue not once, but twice on behalf of Ohioans. Thank you and I am happy to address any questions you might have.

¹¹ <https://nyshealthfoundation.org/resource/health-care-spending-trends-in-new-york-state/>