



**Opponent Testimony of  
Physicians for Fair Coverage  
Before the  
Ohio House Finance Committee**

**November 20, 2019**

Chairman Oelslager, Vice Chairman Scherer, Ranking Member Cera, and distinguished Members of the House Finance Committee, thank you for the opportunity to testify in opposition to House Bill 388 on behalf of Physicians for Fair Coverage (PFC). My name is Dr. Sriram Mannava and I am a radiologist with Columbus Radiology and a member of PFC.

PFC is a non-profit, non-partisan, multi-specialty association of tens of thousands of physicians nationwide partnered with patients and other providers to end surprise billing. In Ohio, PFC members care for hundreds of thousands of patients each year in more than 30 facilities statewide.

PFC-affiliated physicians are collectively in-network with more than 95 of the patients they see and support a ban on balance billing for unexpected out-of-network care. Like me, they are committed to protecting their patients and advocating with them and on their behalf.

Members of the Committee, I would like to commend you for working to address out-of-network surprise billing for our patients. As a physician, I live and work by the creed “do no harm” and believe that any solution to surprise billing should meet this test as well. However, after thorough review of House Bill 388, it is clear the language fails to address numerous problems patients, plans, and providers face with surprise bills every day.

**Patients Can Still Receive Surprise Bills**

Under House Bill 388, there is a requirement that insurers reimburse an out-of-network (OON) provider for unanticipated OON care provided at an in-network facility. Additionally, the bill requires an insurer to reimburse an OON provider or emergency facility for emergency services provided at an OON emergency facility.

While these provisions are a step in the right direction, the language fails to completely remove patients from the potential of receiving surprise bills for unanticipated care. For example, the door is still open for a patient to receive a balance bill at an out-of-network provider in a non-emergent, out-of-network facility.

The primary goal of legislation to address surprise medical bills should be to completely remove patients from these unanticipated costs.

## **Insurers Hold All of The Power**

As for reimbursement, House Bill 388 creates a significantly uneven playing field, placing all of the power in the hands of insurance companies.

The “Greatest of Three” is problematic alone for the lack of transparency and fairness. Besides a lack of consideration of physicians’ charges or actual cost of providing care, HB 388 instead provides a choice between the median in-network rate, the rate an insurer pays for an OON service per the benefit plan or the Medicare rate. The first 2 choices – the median in-network rate and the OON benefit plan payment – rely only on the insurer to disclose or determine what these rates are. There is no third-party independent verification of these rates to ensure the insurance company does not under-report or attempt to manipulate the payments downward. Without a requirement for transparency, providers are ultimately required to “take the insurers word for it.”

Futhermore, the negotiation and arbitration procedures for disputes between providers and insurers for unanticipated care are limited to these same “Greatest of Three” provisions. I repeat, these metrics are controlled by the insurer for the insurer and provide an unfair advantage to...the insurer.

Additionally, without a required interim payment from the insurer to the provider, insurers are relieved of prompt pay provisions if a provider disputes the payment. This could create serious cash-flow problems for independent practices and employers across the state while also hindering access to care.

HB 388 clearly places the negotiating power solely in the hands of insurers, undoubtedly leading to an endless downward payment spiral that could even impact in-network contract negotiations. If an insurer can provide whatever number they'd like as the median in-network rate due to lack of 3<sup>rd</sup> party transparency through an independent database, what prevents insurers from driving down in-network contracting rates moving forward or a reset of the out-of-network rate per benefit plan?

Clearly, given the lack of transparency and the one-sided “Greatest of Three” options, HB 388 would result in reductions in payments far below the actual cost of providing care for both in-network as well as out-of-network services. This, in turn, could result in serious access to care issues, especially in rural and underserved urban areas.

## **Critical Elements to Consider in Surprise Billing Legislation**

House Bill 388 falls short in providing the critical framework and accomplishing the goal to effectively end surprise billing in the best interests of patients and the physicians who care for them. Rather, the correct framework to accomplish the goal of truly ending surprise billing while providing a fair and equitable solution to reimbursement disputes between providers and insurers is one that:

1. **protects patients** by banning balance billing for unexpected out-of-network care and ensures any out-of-pocket expenditures are limited to in-network cost-sharing requirements and deductibles;
2. **ensures access** to care by allowing for fair reimbursement and setting a reasonable process for solving disputes between the physician and the health plan, completely taking the patient out of the middle; and
3. **provides greater transparency** with consistent and accurate information on pricing and each health plan’s most current network of physicians and other providers.

In conclusion, House Bill 388 does not achieve all of the critical elements to successfully end surprise billing for unexpected out-of-network care for the people of Ohio. For these reasons, Physicians for Fair Coverage strongly opposes this legislation and we urge Members of this important committee to do so as well. It is absolutely essential that a fair and balanced approach be taken to end surprise billing. House Bill 388 is not that approach.

We appreciate your leadership on this important issue and thank you for the opportunity to testify today. PFC stands ready to work with you and all stakeholders on this important matter in the best interest of our patients and the physicians who care for them. I would be happy to answer any questions you may have.