



House Insurance Committee
Dr. Bryan Graham – House Bill 99 Proponent

Chairman Lampton, Vice Chairman Barhorst, Ranking Member Miranda and members of the House Insurance Committee, thank you for the opportunity to provide testimony in support of House Bill 99. My name is Dr. Bryan Graham and I am here on behalf of the Ohio Chapter of the American College of Emergency Physicians (Ohio ACEP) that represents over 1,600 emergency physicians across the State. I currently serve as the President of Ohio ACEP and I am a practicing emergency physician at the Cleveland Clinic.

House Bill 99 will strengthen and affirm Ohio’s prudent layperson standard and require insurers to conduct an emergency services utilization review of a claim before denying or reducing reimbursement for an emergency services claim. The legislation would also prohibit an insurer from denying or reducing a claim for emergency services based solely on a diagnosis code or impression, current ICD code, or select procedure code relating to the enrollee's condition.

As you heard from the bill sponsor, emergency departments and emergency physicians practice under the federal law known as EMTALA (the Emergency Medical Treatment and Labor Act). EMTALA requires that any patient who presents to an emergency department receive a medical screening exam and any care needed to stabilize that emergency. This care is provided regardless of insurance status or ability to pay. If EMTALA is violated, penalties may include termination of the hospital or physician's Medicare provider agreement, as well as steep financial penalties. This is what makes hospital emergency departments the true healthcare safety net. We are there for all patients, at all times, with no exceptions.

As you also heard from the sponsor, Ohio currently has a prudent layperson standard law. This means that if a person with average medical knowledge believes they have an emergency medical condition, that visit to the emergency department should then be considered a medical emergency. To expand upon that from my medical perspective, most times symptoms overlap many possible diagnoses. These symptoms could be caused by a serious and life-threatening condition or something less critical. The prudent layperson standard is critically important to allow patients access to emergency care and not be put in the position to make a differential diagnosis on their own.

As an emergency physician, I underwent four years of undergraduate premedical education, four years of medical school, followed by three years of additional training in an emergency medicine residency program. I spent thousands of hours, and years of my life, being trained in assessing the undifferentiated patient with an acute complaint and learning to identify and treat life threatening emergencies. Patients can’t be expected to determine what is or is not an emergency, without the tools of the emergency department and the years of training that allows me to deliver this standard.

We understand many on this committee might be concerned about the overutilization of emergency departments and want patients to seek care in lower cost settings. Patients have many options to receive healthcare, whether from their primary care physician, a visit to an urgent care or other options. Many times, that is what patients do. However, if a patient presents to an urgent care and diagnostic testing is

President
B. Bryan Graham, DO, FACEP

Secretary
Joseph Tagliaferro, DO, FACEP

President-Elect
Dan C. Breece, DO, FACEP

Immediate Past President
Nicole A. Veitinger, DO, FACEP

Treasurer
Ryan Squier, MD, FACEP

Executive Director
Holly Dorr, MBA, CAE, CMP

needed to determine the cause of an acute condition, the patient will likely end up in the emergency department anyways. There are also barriers to accessing a primary care physician should the condition manifest in the evening or on the weekend when most doctor's offices are closed. The emergency department is the only place that is open 24/7/365.

We do not want patients who need emergency care to delay seeking help. This can lead to worst outcomes. We saw this during the early days of the COVID 19 pandemic, when ED visits dropped dramatically over fear of leaving the home and limited access to office-based providers. Patients attempted to self-diagnose, and subsequently mortality rates skyrocketed amongst all disease categories, and we saw complications of missed heart attacks, strokes and so many other diseases that we have not seen in YEARS.

Patients who come to the emergency department should feel relief when after their emergency medical exam, their emergency concern turns out to be something that is not life threatening, can be readily treated, and they're subsequently discharged home. However, that sigh of relief can turn to panic when their insurance coverage fails to be there for them when they needed it most. This legislation will ensure that insurers are not unilaterally denying coverage or reducing patients' benefits without first reviewing a claim and considering presenting symptoms, not just an algorithm of diagnosis codes.

Ohioans and employers purchase health insurance to protect them financially when care is needed. Patients expect that when an emergency happens, their insurance will cover that care. All plans are required to cover emergency services, however, in many cases, that coverage is not there. The legislature did significant and important work to protect patients from a surprise bill if they see an out-of-network provider in an emergency. We see the retroactive denials of care as a surprise bill as well. These patients have insurance. They were seen and treated by an in-network provider. The care has already been delivered and complete. And then the denial comes, leaving the patient with a bill they did not expect. In fact, this is surprise lack of coverage.

Many times, that bill is never paid, leaving the hospital and physician to write off the care as bad debt or charity care. And if the patient is able to pay the bill, since the care was denied by the insurance, it won't even go towards the insurance deductible.

It is important to note, that HB 99 does not prohibit an insurer from ever denying a claim. It only requires that a full and appropriate review of that claim is completed before it is denied or the benefit is reduced. It also makes clear that the claim cannot be denied or reduced based on the patient's final diagnosis. The full medical record must be taken into account, including presenting symptoms.

House Bill 99 is about protecting patients. House Bill 99 is about protecting the healthcare safety net, so that it is always there when you, your families, and your neighbors need us. Please support this important legislation. I'd be happy to answer any questions you might have.

President
B. Bryan Graham, DO, FACEP

Secretary
Joseph Tagliaferro, DO, FACEP

President-Elect
Dan C. Breece, DO, FACEP

Immediate Past President
Nicole A. Veitinger, DO, FACEP

Treasurer
Ryan Squier, MD, FACEP

Executive Director
Holly Dorr, MBA, CAE, CMP