



## **FOR IMMEDIATE RELEASE:**

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## **NORTHEASTERN MEDICAL SOCIETIES URGE CONGRESS TO ENACT FAIR SURPRISE BILLING REFORM LEGISLATION**

October 1, 2019, Wilmington, DE - Our respective associations representing tens of thousands of physicians across the northeastern United States applaud the many members of the US Congress who are seeking to take action to protect patients from “surprise” medical bills. However, what is needed is a balanced, comprehensive solution to this problem, not a one-sided gift to the insurance industry that will create shortages in our emergency departments and an acceleration of health care consolidation.

Proposals that have begun to advance in the US House and Senate appropriately prevent patients from facing surprise bills from out of network practitioners. However, they give unilateral control to the insurance industry to determine what should be the cost of care in these instances. No negotiation. No compromise. No recognition of special circumstances surrounding the care delivery. If Congress gives insurers this extraordinary new power, why would an insurer ever fairly negotiate with a physician to be in their patient care networks? In fact, in California, when insurers were given this discretion, what followed was a 48% increase in patient access to care complaints including delays in obtaining care or securing physician appointments, inadequate selection of providers, and problems accessing facilities.

The comprehensive laws in New York and Connecticut addressing this issue have been widely acclaimed because of the delicate balance it struck among health insurers, physicians, and hospitals to protect patients from surprise medical bills, while also ensuring the ability of hospital emergency departments to have available needed on-call specialty physician care to provide patient care when time is of the essence. In New York, when an insurer and physician cannot agree, the solution is decided through a low cost, simplified dispute resolution system. The arbitrator chooses the side that is more reasonable based upon a number of factors.

New York and Connecticut’s laws rely upon benchmarks developed by an independent entity that is free from insurer or physician control. This is particularly important given the insurance industry’s own notorious history in establishing benchmarks for out of network payment. In 2009, then New York Attorney General Andrew Cuomo launched an investigation into United Healthcare’s ownership of the Ingenix database. The insurance industry agreed to stop using this conflicted database and agreed to contribute toward the creation of an independent data collection entity, “Fair Health,” which has become the reference database used by New York.

From the statistics, it is clear that New York’s law is working as it was intended. A recently released report from the New York Department of Financial Services showed consumers have saved more than \$400 million since the law’s enactment. It also reduced out-of-network billing by nearly 35%. Furthermore, the relatively low number of claims decided since the law was implemented

suggests that New York's system is having the effect of pushing health insurers and physicians to resolve their differences without state intervention.

As stated by NY Department of Financial Services (DFS) Superintendent Linda Lacewell, "New York's law has been a true success in bringing stakeholders together to solve the problem of excessive charges for emergency services and surprise bills."

Given the success of New York's law, we are concerned with proposals that will clearly deviate from this carefully crafted approach to the problem. Instead, we urge Congress to look to legislation, such as that sponsored by Congressmembers Ruiz and Roe (HR 3502), that would emulate New York's successful approach."

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***About the Medical Society of Delaware***

*The Medical Society of Delaware is one of the oldest institutions of its kind in the United States and rich in history. Founded in 1776 and incorporated on February 3, 1789, The Medical Society of Delaware continues its support of physicians in their vigor and spirit to advance the profession, which was the basis for its creation. Its Mission is "To guide, serve and support Delaware Physicians, promoting the practice and profession of medicine to enhance the health of our communities."*