



April 19, 2018

Rep. Sam Kito  
Chair  
House Labor and Commerce Committee  
Room 403 Capitol Bldg.  
Juneau, AK, 99801

Re: HB193 support

Dear Representative Sam Kito:

We are writing today on behalf of the Alaska Chapter of the American College of Emergency Physicians to follow up on invited testimony Anne Zink, MD, Alaska ACEP Past President, made regarding HB193. Dr. Zink very clearly represented our views in her oral testimony April 15 and we thank you for inviting her and taking the time to listen to her statements. We are dismayed, however, by the misleading testimony we heard from parties opposed to HB193, and write now to clarify for the record some of the statements we heard that were alarming and, we believe, misleading.

### **We are Alaskans**

You might wonder why Alaskan emergency doctors are so passionate about this subject. We live in Alaska. We are part of this community and the lives that we care for are those of our families, our friends, and our community members. In our emergency rooms across the State we are the ones that care for patients that have no insurance, inadequate access to care because they have poorly reimbursed government sponsored Medicaid and Medicare, or have insurance, but have unaffordable coinsurance and deductibles.

### **The testimony and letters you received from insurance carriers are misleading**

Len Sorrin spoke in generalities that do not reflect our Alaska market, and we want to make sure you have accurate information that reflects the local context in Alaska. He stated that if you were cared for in an emergency “almost certainly your surgeon is in-network.” He

also said that hospitalists, internal medicine or primary care doctors working in the hospital, are employees of hospitals. These statements are not true for Alaska. In Alaska, most hospitalists are not employees of hospitals. Instead, they are contracted groups just like other physician groups and specialists. At the same time, in Alaska, surgeons contract with insurance companies just like all other specialists and not all surgeons will be in your insurance network. While many Anchorage orthopedists recently joined the Premera network, there are some surgical specialties that have very thin network coverage in Alaska. Providers may also be in-network for one insurance provider but out-of-network for another.

These clarifications are important because HB 193 directly relates to these providers when they are not in-network. Mr. Sorrin's statements, if left uncorrected, could lead you to underestimate the extent of the problem patients face with unexpected out of network care.

### **We are talking about *Emergency Services***

Len Sorrin said that when you see a doctor in an office you typically provide your insurance card and the physician's office will tell you whether they are in your network or not. This statement is not relevant to emergency care. When patients have emergencies we do not ask what insurance company they use prior to providing care, nor do patients ask if we are in-network. When someone is having an emergency they are cared for, and that is our responsibility through EMTALA. Typically, there is one specialist per sub-specialty on call per day, and there is not necessarily a specialist on call for each person's specific insurance plan. Finding specialists to take call is an extremely difficult burden to our system. In an emergency room there is absolutely no time to sort out who is in-network at the time of care.

For some specialties there is often one specialist on call in the entire State of Alaska. There are times when no doctors are on call at all for the entire state in certain specialties. Examples are Cardiothoracic surgery, Orthopedic Hand specialists, and Oral Maxillofacial surgery. There are simply too few of these specialists in our state to have someone on call every day.

The example of asking the anesthesiologist if they are in-network before the surgery starts is a great one. It's an important question, but when you need an emergency surgery even if the answer is "not in-network" you will need to proceed with the surgery. The anesthesiologist is the only one in the hospital covering emergencies. That is why HB193 is needed.

### **HB 193 does not drive doctors out of network**

It was also said at the hearing that providers "will be driven out of network to get a better reimbursement rate." This is completely inaccurate in two ways.

1. We have the 80th percentile rule in place presently and provider networks are growing, not shrinking. As an example, just a few years ago there were no orthopedists in-network for orthopedics in Anchorage. Now, almost all the orthopedists are in-network. This legislation does not change the 80th percentile rule that we have in place; it merely

places a ban on balance billing. If providers were going to leave their in-network status because of the 80th percentile rule, they would have already done so.

2. This bill is for emergency services only. This bill eliminates balance billing when patients have emergencies and cannot control who their providers will be. In our previous testimony, we have shown that with the 80th percentile rule in place, emergency care charges in this state are consistent with the Seattle area for both in and out-of-network, as shown with FAIR Health. The care that we worry will generate balance billing is specialty care. Emergency care for specialists is an ethical and community responsibility, but it's certainly not a money maker. No one wants to be woken up at 3 a.m. to take an emergency to the operating room. No one wants to work holidays and weekends away from their families. This care is not what keeps doctors' offices open. Specialists are never going to leave networks so that they can get paid more for the 3 a.m. emergency. There aren't enough emergency cases for this to be a profitable strategy, and HB193 will not change this.

### **Inaccuracies regarding 80th percentile**

We also heard testimony that Premera fears the use of the 80th percentile will exacerbate healthcare costs and premiums. This statement completely ignores that we have had the 80th percentile in place in this State since 2004. This bill changes nothing about reimbursement and merely ends the surprise coverage gap when patients are surprised that insurance companies are not covering their care. This bill does not change costs at all; it just prevents patients from getting unexpected bills for emergency charges that exceed the 80th percentile.

We heard testimony that referred to a "recent study by Milliman." There have been multiple Milliman studies, but none were recent (2011 and 2014) and none were done to investigate the 80th percentile rule's effect on Alaska's healthcare market. None looked at the effect of balance billing on the healthcare market. None were focused on emergency services. They all have been based on old data and not our current situation. Extrapolating these statements from reports that were not intended to answer this question is invalid and inappropriate.

### **Reducing costs**

The goal of reducing costs for Alaska healthcare is important and is not addressed by this bill. The 80th percentile rule has been pointed to by insurance companies as the reason for high healthcare costs in this state. But we suffer the same ills of the whole country. The top five locations of health spending per capita in our country are: Washington DC (\$11,944), Alaska (\$11,064), Massachusetts (\$10,559), Delaware (\$10,254) and Vermont (\$10,190). What has pushed these States to costs greater than \$10,000? It's certainly not the 80th percentile rule. We should be looking at what is driving costs for the country and identify what we can change in Alaska.

A March 2018 study in JAMA by Papanicolas "Health Care Spending in the United States and Other High-Income Countries" is a great tool that can be used to help drive our policies in

Alaska. The study found that the driver of costs was not physician salaries; it was #1 high pharmaceutical costs, #2 high margin, high volume procedures, #3 high utilization of CT and MRI imaging, and #4 high administrative costs. It is not surprising that specialists in our State are taking heat that they are driving up healthcare costs. The mistake is pointing to the 80th percentile rule as the problem. The problem is the kind of healthcare our country has decided to provide, and utilization of procedures and imaging will not be changed by banning balance billing.

**The goal is to protect patients**

Alaska patients and families need full protection from surprise bills. This bill will strengthen the healthcare system, offering protection first and foremost to patients, and ensuring the doctors and emergency rooms can keep their doors open and keep staffed with needed specialists and providers to best treat patients in emergencies.

We hope we can count on your support for HB 193.

Thank you for your consideration.

Sincerely,  
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