

January 24, 2024

The Honorable Bernie Sanders
Chairman
Health, Education, Labor and Pensions Committee
U.S. Senate
Washington, D.C. 20510

The Honorable Bill Cassidy
Ranking Member
Health, Education, Labor and Pensions Committee
U.S. Senate
Washington, D.C. 20510

The Honorable Mike Braun
U.S. Senate
404 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Tina Smith
U.S. Senate
720 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Sanders, Ranking Member Cassidy, Senator Braun and Senator Smith:

The undersigned organizations write regarding Section 5 of the “Health Care PRICE Transparency Act 2.0,” (S. 3548) which would require price transparency of items and services provided in ambulatory surgery centers (ASCs). Our organizations represent ASCs and physicians who provide care in surgery centers. Section 5 imposes new requirements on ASCs that are not only duplicative of existing transparency requirements but are likely to result in consumer confusion.

Effective Jan. 1, 2024, group health plans and issuers of group and individual health insurance must make price comparison information available for *all* covered items and services. According to the Centers for Medicare and Medicaid Services (CMS), this information must be made available through an internet-based, self-service tool and in paper form, upon request.¹ Required information² includes in-network provider rates for covered items and services, out-of-network allowed amounts and billed charges for covered items and services, and negotiated rates and historical net prices for covered prescription drugs. Plans must also provide, upon request of a plan beneficiary, information about cost-sharing for covered items and services.

The comprehensive and plan-specific information that will now be available to beneficiaries from their insurance company seems to us a better approach than the requirements in Section 5 that ASCs make publicly available the “de-identified maximum and minimum negotiated charges” for *all* items and services. Further, an ASC controls just one aspect of the costs of health care services or procedures provided in their facility — the facility fee— which does not reflect the total cost of care and could lead to consumers being misinformed about what a service will actually cost. A consumer researching the cost for a service provided in an ASC would receive the most comprehensive information, including professional fees, ancillary fees, facility fees and their cost-sharing obligations, from their insurance company.

With respect to Section 5 requirements for ASCs to post the gross charge and discounted cash price of all items and services, most surgery centers already make cash price information available to patients upon request, and must provide a good faith estimate of charges to anyone who asks – patient or not – under the *No Surprises Act*. Section 5 also requires ASCs to accept the discounted cash price as payment in full from any patient who chooses to pay in cash without regard to their insurance coverage. We ask whether consideration has been given

¹ <https://www.cms.gov/healthplan-price-transparency/plans-and-issuers>

² <https://www.cms.gov/files/document/faqs-about-affordable-care-act-implementation-part-61.pdf>

to situations in which a state or other law requires a health care provider to submit a claim to a health plan for a covered service. We respectfully encourage you to consider the possible unintended implications of these requirements, including providers discontinuing the acceptance of cash-pay patients.

Our organizations oppose Section 5 as written and, instead, we urge you to focus on policy changes that meaningfully improve health care decision making and timely access to high-quality care. For more information or to request a meeting of our organizations, please contact Camille Bonta, policy advisor for the American Society for Gastrointestinal Endoscopy, at cbonta@summithealthconsulting.com or Kara Newbury with the Ambulatory Surgery Center Association at knewbury@ascassociation.org.

Sincerely,

Ambulatory Surgery Center Association
American Academy of Ophthalmology
American Academy of Otolaryngology–Head and Neck Surgery
American Association of Hip and Knee Surgeons
American Association of Orthopaedic Surgeons
American College of Gastroenterology
American Gastroenterological Association
American Society for Gastrointestinal Endoscopy
American Society of Anesthesiologists
CardioVascular Coalition
Dialysis Vascular Access Coalition
Large Urology Group Practice Association
Outpatient Ophthalmic Surgery Society
The Society for Cardiovascular Angiography and Interventions