

March 11, 2020

The Honorable Ralph Northam
P.O. Box 1475
Richmond, VA 23218

RE: H.B. 1251/S.B. 172

Dear Governor Northam:

On behalf of the Virginia Society of Plastic Surgeons (VASPS) and the American Society of Plastic Surgeons (ASPS), we are writing regarding H.B. 1251/S.B. 172. Together, we represent 206 board-certified plastic surgeons in Virginia. Our mission is to advance quality care for plastic surgery patients and promote public policy that protects patient safety.

ASPS appreciates the legislature's willingness to address the surprise billing problem that has swept across the United States since insurers began narrowing their networks following the enactment of the Affordable Care Act. VASPS and ASPS support several provisions within the bill that will rectify some of the current issues with out-of-network billing, including:

- Payment from the carriers directly to the physician for all out-of-network payments. This is key, as it will remove patients from all billing disputes.
- Additional network adequacy determinations for facility-based surgical and ancillary services covered by the law to be considered in the state managed care health insurance plan approval process. As you know, the entire issue of surprise billing is fundamentally a network adequacy issue. This provision is a strong step in the right direction.
- Network participation notification provisions for facilities and insurers. Insurers and facilities are well-placed to provide accurate and timely information regarding network participation to prospective patients.
- The inclusion of charge-based criteria in the factors an arbitrator is provided when determining appropriate payment.

While we would prefer stronger initial reimbursement language with a clearer definition of “commercially reasonable amount,” we are supportive of the overall concept for omitting a specific definition, as it will protect physicians from unscrupulous actors in the insurance industry by not allowing for the potential of data manipulation. And while we are uncomfortable with the inclusion of the median in-network rate as one of the criteria that must be considered by the arbitrator – that rate is simply not representative of the fair market value for out-of-network services – we appreciate that H.B. 1251/S.B. 172 does not benchmark payments to that rate. We are cautiously optimistic that trained dispute resolution professionals will be able to delineate between adequate and inadequate reimbursement for out-of-network services following the review of the criteria outlined in the bill.

We thank the legislature for its diligence in navigating this contentious issue and putting together legislation that will, ideally, protect Virginia's patients and physicians in out-of-network scenarios. Please do not hesitate to contact Patrick Hermes, ASPS Director of Advocacy and Government Relations, at phermes@plasticsurgery.org or (847) 228-3331 with any questions or concerns.

Sincerely,



Lynn Jeffers, MD, MBA, FACS
President, American Society of Plastic Surgeons



Helena M. Guarda, MD
President, Virginia Society of Plastic Surgeons