AMERICAN SOCIETY OF PLASTIC SURGEONS ®
THE PLASTIC SURGERY FOUNDATION ®

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ASPS Policy Position Statement: *No Surprises Act* Enforcement and Independent Dispute Resolution

The American Society of Plastic Surgeons (ASPS) recognizes that the *No Surprises Ac*t (NSA) is successfully fulfilling its primary purpose of protecting patients from unexpected out-of-network medical bills. However, shortcomings in the law's enforcement mechanisms continue to undermine its intended framework for fair and sustainable physician reimbursement. Congress designed Independent Dispute Resolution (IDR) determinations to be final and binding, but that has not worked in practice. Many insurers are unlawfully delaying or withholding payment following IDR awards, and some courts have refused to allow physicians to address these problems, holding that physicians lack a federal "private cause of action" to enforce the IDR awards. ASPS supports legislative solutions that strengthen enforcement of the NSA, promote accountability, and establish a sustainable reimbursement structure that continues to protect patients, while supporting the long-term viability of physician practices. Specifically, ASPS supports reforms that:

Secure a Private Cause of Action: Support legislation establishing an explicit private cause of action that allows physicians to pursue legal remedies when insurers fail to comply with the NSA, particularly by allowing physicians to enforce final and binding IDR determinations. Providing physicians with a clear and enforceable legal pathway to recover unpaid awards is essential to ensuring that the IDR process functions as Congress intended and that insurers are held accountable for meeting their statutory payment obligations.

Ensure Timely Payment and Accountability: Establish enforceable financial penalties for insurers that fail to remit payment within 30 days of a final IDR determination — the existing, though currently unenforceable, deadline under the NSA. These penalties should provide a clear financial incentive for timely compliance, discourage prolonged payment delays and bad faith negotiation, and ensure that physicians are not forced to bear the financial burden of insurer noncompliance.

Promote Ethical Billing and Appropriate Safeguards: Explore reasonable ethical standards and safeguards to discourage outlier billing practices, promote fair reimbursement, and preserve the integrity of an independent and balanced dispute resolution process. It should be noted that when the IDR process is used by both parties in good faith, outlier billing practices are mitigated. Thus, it is important that the regulations and enforcement mechanisms ensure that both parties engage in good faith. Thus, caps and other arbitrary price fixing would be unnecessary.

ASPS maintains that effective implementation of the NSA requires both meaningful patient protections and a fair, enforceable physician reimbursement process. ASPS is committed to advancing legislative reforms that address existing enforcement deficiencies while preserving the law's foundational patient protections.

These reforms are essential to ensuring the NSA provides a fair, balanced, and sustainable reimbursement system that protects patient access to high-quality care while supporting the long-term viability of physician practices.