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Ohio General Assembly

House of Representatives

Columbus, OH 43215

December 27, 2016

Mr. Michael Abrams
Ohio Hospital Association
155 East Broad Street, Suite 301
Columbus, Ohio 43215

Dear Mr. Abrams,

I am the author and primary sponsor of the Healthcare Price Transparency Law, O.R.C. 5162.80 ("Price Transparency Law"), which the Ohio House and Senate passed unanimously in June 2015 and Governor Kasich immediately signed thereafter. I am writing to make clear my position considering the recent lawsuit that you and other organizations filed against the State of Ohio on December 22, 2016 to stop the Price Transparency Law from taking effect on January 1, 2017. Although I and others vigorously dispute the facts as stated in your lawsuit, instead of arguing these points, I suggest we simply agree to support clarification of the law that leads to full transparency of healthcare costs for the people of Ohio.

I want to clarify my proposals, offered over the past year and a half during many meetings with the healthcare lobby, in response to your members' concerns about the law. In short, I have offered to support changing the law in virtually any way that will make it more clear and easier to implement. However, I will not agree to limit the law's ultimate scope. Your organization has repeatedly proposed only providing the costs for a handful of 10-20 services that must be scheduled seven days in advance. This has been the only real point of disagreement, as limiting transparency to a few, pre-determined and purposefully chosen services is not truly providing transparency at all.

Specifically, below are the changes I have repeatedly offered and continue to offer:

- 1) Your concern that there is not enough time to implement the Price Transparency Law – I have offered to amend the law to set a gradual phase-in of transparency over two years starting January 1, 2017 and of enforcement over two additional years (four total years until full transparency). I offered to allow the healthcare industry to choose the method

of phasing in the Price Transparency Law: by a gradual increase in the number of services for which an estimate is required, by the size of the provider, by the dollar amount of the service, or by a combination of these methods.

- 2) Your concern that providers will need to stop and give an estimate for each service that arises during a visit – In light of this interpretation of the law, I have offered to clarify that an estimate is only required for the anticipated services at the time the appointment was made, not for things that come up later during an appointment.
- 3) Your concern that insurance companies might take too long to provide the patient’s out-of-pocket costs upon request by the provider – I have offered to amend the Price Transparency Law so that insurance companies must provide an easy way to share cost information. They might offer either a web portal (many already do) or participate in a readily accessible Health Information Exchange (my understanding is that over 90% of insurers already do this because it is required by federal law). In both instances, the provider will be able to instantly get the out-of-pocket cost required by the Price Transparency Law to provide to the patient. I have also repeatedly offered to insert a safe harbor in the Law so if the insurance company is not providing this information instantly as described above, the provider can simply put into the estimate “Insurance Information Not Available.”
- 4) Your concern that a written estimate is too difficult to provide – I have offered to allow for: (a) verbal communication of the estimate; (b) showing the estimate on a screen or a pre-printed notecard for commonly provided services; and (c) patients to opt-out of receiving the estimate of any service offered by the provider.
- 5) Your concern that some services do not require transparency – I have offered to consider any list you provide of services for which there should not be a transparency requirement and, if the patient would not benefit from transparency (I am not sure what services these would be, but I would be more than willing to consider any you would recommend), I have offered to exclude them from the requirement. To date, I have not received any such list.
- 6) Your concern that the Kasich Administration has not drafted rules – This is also a concern of mine and, quite frankly, rules should have been drafted by July 1, 2016 as the law required. However, I have offered to clarify the rulemaking section if it will help the Kasich Administration to carry out the law. As I have stated, the intent of the Price Transparency Law is already very simple. Currently, patients are sent an invoice, or sometimes many different invoices (possibly from several sources) 30 or more days *after* the service is performed. The goal of the law is to provide the identical information in one estimate -- the comprehensive cost prior to the service so patients can make an informed financial decision beforehand.

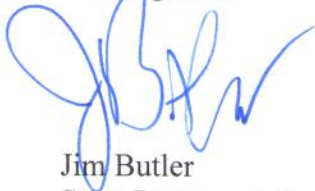
Besides the specific solutions to your concerns that I have offered above, I am more than willing to consider any other solutions so long as patients eventually receive full price transparency for any healthcare service provided. Additional improvements, such as adding a quality component, disclosure of whether the provider is part of the patient’s insurance network, and earlier full cost estimate for scheduled services, could also be added as part of a more comprehensive solution.

Price transparency is present in every other aspect of society. Few, if any, purchase a house or their groceries without knowing their cost. Even for car repairs, you get an estimate up front. Healthcare costs should not be hidden. Why are they any different from other essential expenses?

Price transparency is already given in complex healthcare areas like cosmetic and dental surgery, both areas with significant or total patient payment. Transparency is also currently offered for complex surgeries like hip replacements at University Hospital in Cleveland where there is a significant patient co-payment that the hospital customarily collects prior to the procedure. This transparency easily meets the requirements of the Healthcare Price Transparency Act and has been adopted by several major hospitals around the country. If transparency is already offered for certain, select procedures and services, it clearly is not impossible to expand transparency to all non-emergent procedures and services.

Will you please contact me by January 3rd if you are interested in working together to provide true price transparency in healthcare to the people of Ohio? They have a right to know what they will spend when making important decisions. I am looking forward to hearing from you.

Best regards,



Jim Butler
State Representative, 41st House District