

Health Care for All Colorado

Position Statement

Senate Bill 15-074: "Transparency in Health Care Prices Act"

February 9, 2015

The mission of Health Care for All Colorado (HCAC) is to promote social welfare by achieving single-payer, comprehensive health care for all Coloradans. HCAC's objectives include working with a coalition that will develop strategies for achieving comprehensive, affordable and high quality health care for all Coloradans. HCAC believes that it is critical to grant the human right to care to all United States residents as most of the rest of the civilized world already does. HCAC analyzes bills introduced in the Colorado General Assembly, and makes a determination to adopt a position of either supporting or opposing, depending on whether or not the proposed legislation is consistent with its mission and objectives, and creates a stepping stone toward its ultimate goal.

Senate Bill 15-074 was introduced by members of the American Legislative Exchange Council (ALEC). The mission of ALEC is to discuss, develop and disseminate model public policies that expand free markets, promote economic growth, limit the size of government, and preserve individual liberty. It is based on the 2013 ALEC model policy "*Freedom to Purchase Medical Services Act*." In its 2015 publication, "*INNOVATE Policy for the Future*" ALEC identifies the widespread confusion regarding health care charges and disparities in pricing, and concludes that this confusion creates a disincentive for consumers to seek competitive pricing. Furthermore, ALEC believes that the spread of concierge medicine and direct primary care are offering consumers new choices and transparency not typically seen in health care, and that direct primary care has benefits that extend beyond those participating, including increased, voluntary transparency by competitors, and potential savings for taxpayers.

ALEC supported Senate Bill 15-074 creates the Transparency in Health Care Price Act. The act requires health care professionals and health care facilities to make a single document that lists the direct pay prices for the most common health care services provided available to the public. Health care professionals and facilities must update the document at least annually and provide the document on request and electronically if a website exists. Under the bill, health care professionals and facilities are not required to submit their direct pay prices to any government agency for review. This bill does not provide any agency with the authority to approve, disapprove, limit, or change the direct pay prices disclosed by health care professionals or facilities. The bill also prohibits any health insurers or health systems from penalizing a person who pays directly for health care services. The bill allows citizens of Colorado to seek injunctive relief in a court of competent jurisdiction against any person allegedly violating the act. The prevailing party is entitled to an award of reasonable attorney fees and costs.

According to the Fiscal Note, no appropriation is required. However, the bill may increase state expenditures for some agencies. The bill may impact a grant in the Department of Public Health and Environment (DPHE). The DPHE receives \$1.2 million in federal funds to improve health care access for low-income and rural communities. Federal rules require that fee schedules for identified providers and

facilities are approved prior to grant funds being accessible. Under the bill, government agencies do not have the authority to approve, disapprove, or limit a health care professional or facility's direct pay prices. As a result, the bill may impact the DHPE's ability to meet the requirements of the federal grant.

Among the HCAC's fifteen principles upon which a single-payer system should be based, four are most relevant to the analysis of SB 15-074:

1. The method of payment for health care in Colorado must belong to the people of Colorado. The people pay premiums into a Colorado health care trust fund, the people decide how the money is spent for the health benefit of the people, and excess funds are returned to the people.
2. Financial barriers to care must be eliminated: no deductibles and small co-pays that would be waived based on financial need or chronic conditions.
3. Billing and reimbursements for providers will be fair, adequate, simple, electronic, and rapid. No more armies of billing specialists will be required to fight for payments from insurers.
4. The system will promote greater transparency in outcomes and facilitate greatly improved public health conditions. Providers will be able to easily develop specific programs and services that improve the health of their populations. Citizens will be able to select providers based on easily-obtainable quality metrics.

After detailed review and analysis, HCAC OPPOSES SB 15-074, for the following reasons.

Although greater transparency is beneficial and consistent with the principles of HCAC, SB 15-074 does not provide a way to help government better meet the needs of the people they serve.

Pricing transparency to benefit the patient would be more effective if providers were required to submit pricing information to an existing entity such as the All Payer Claims Database (APCD) that is more than equipped to handle this information in its scope. The bill as currently written does not provide easy access to obtain pricing information. Without a way to compare prices, or a way to file a complaint with any oversight authority, the information becomes meaningless.

The legislation would foster more concierge medicine, further exacerbating a multi-tiered health care delivery system, where those with the money to pay for such services receive better access to care along with a higher quality of care. Providers in high demand such as specialists could potentially command higher payments, driving down access and increasing costs.

The language about "not punishing a person who pays directly for health care services" is unnecessary, as anyone can currently pay the 'uninsured' rate today if they chose to do so. This language establishes another roadblock to any future universal health care by allowing providers to easily work outside of any regulated health care delivery system.

This bill sets up an environment where there is no future ability for any entity to influence or control prices. It will preemptively deregulate a portion of the industry that has little or no regulation. A

necessary component of any health care system that fairly manages medical costs and medical cost inflation does so using a variety of pricing controls. Every industrialized nation in the world except the US has price control levers at its disposal, and the fact that the US has none is one of the major reason we spend twice as much as other countries.

According to the Fiscal Note, this legislation may impact the ability of the DPHE to meet the conditions of the Federal Grant to improve health care access for low income and rural communities, with probable negative consequences for our highly rural state.

For these reasons, HCAC is in adamant opposition to SB 15-074, as preamended, as the bill is too flawed in overall concept to be supportable. There are more effective ways to introduce simple, common-sense transparency in health care prices without exacerbating a multiple tier delivery system, reducing access and affordability, and impeding necessary future progress.

Approved:

HCAC Board of Directors

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