

House Ways and Means Committee

Markup of three bills: H.R. 5821, the "HOSPICE" Act, H.R. 5825, the "Transparency in Health Care Investments Act of 2020" and H.R. 5826, the "Consumer Protections Against Surprise Medical Bills Act"

February 12, 2020

10:00AM, 1100 Longworth House Office Building

Purpose:

The purpose of the proceedings was to markup three bills: H.R. 5821, the "HOSPICE" Act, H.R. 5825, the "Transparency in Health Care Investments Act of 2020" and H.R. 5826, the "Consumer Protections Against Surprise Medical Bills Act"

Opening Statements:

Chairman Neal said today the Committee will mark up three important bills to protect patients and promote transparency within the healthcare field. H.R. 5281 will help to protect hospice enrollees within the Medicare program. This bill provides HHS with more tools to oversee hospice centers and equip them with more resources to address challenges. Next, H.R. 5285 will shed sunlight on private equity investments and how these investments may affect the cost of care. Finally, H.R. 5826 is a vital piece of legislation that will protect patients from unexpected medical bills derived from out of network services. It is crucial to remember that the goal of this bill is to protect patients. Of course it is important to keep doctors and insurance companies in mind when considering the legislation, however this committee must remember that patients are the priority. Removing the patient from any billing dispute allows them to focus on their health and treatment. Several consumer and provider groups have expressed their support for this bill

Ranking Member Brady said that it is time to end surprise medical bills. They are horribly unfair and are often too much for families to afford. Every Republican member of the committee is an original co-sponsor of the bill and will work in good faith to advance the legislation forward. This bill is fair to all parties and favors no one, other than the patients. This bill will require that all parties involved in a patient's health care work together to provide a patient with an accurate estimate of the costs associated with treatment prior to said treatment. Thanks to the strong leadership of Chairman Neal, it is finally possible to achieve real savings for patients. Furthermore, H.R. 5821 is an important bill that will help to enhance patient protections within Medicare. Finally, H.R. 5825 is a bill that Republicans will not support. Private equity is an important piece in health care investments.

Rep. Panetta said that Congress and the American people get the best results when everyone works together. The 'Hospice' Act is an example of what can be achieved when partisan differences are put aside. End of life care does not discriminate based on what party you belong to. In fact, every family is impacted by the burden of caring for a loved one at the end of their life. It is crucial that these families are supported and protected.

Rep. Reed said that the issue of hospice care is deeply personal. Without the incredible support of hospice caregivers, families are often left with a large burden. While many hospice centers and caregivers are hardworking and dedicated, there are also a handful that do not provide

adequate care. It is completely unacceptable for any bad actor to remain in the hospice field. Congress must ensure that there is accountability within the industry.

Bill Consideration:

H.R. 5821 the "Hospice "Act

Chairman Neal offered an amendment in the nature of a substitute (AINS). **Counsel** said that the amendment makes two changes to the introduced bill. It requires accreditation organization surveyors to participate in training developed by the secretary. It also provides for GAO to complete its study within 36 months after enactment. CBO has scored this bill and has determined that it will save \$180 million over 10 years. **Rep. Horsford, Pascrell, Buchanan, Chu, Walorski, Larson, Davis, Evans, Kind, Suozzi and Sewell** spoke in support of the bill.

The amendment in the nature of a substitute to H.R. 3398, as amended, was agreed to by a voice vote.

H.R. 5821, The Hospice Act of 2019, as amended, was reported favorably to the full House by a voice vote.

Act, H.R. 5825, the "Transparency in Health Care Investments Act of 2020"

Chairman Neal said that private equity investments in healthcare systems are becoming more common. Often times these acquisitions can threaten the viability of a provider and lead to bankruptcy. Regulators need to have a better understanding of health care finances. This bill seeks to ensure that the proper regulators can see the early warning signs of distress. Furthermore, private equity groups have been linked with surprise billing. These private equity firms often do not lead to savings for consumers.

Ranking Member Brady spoke in opposition to the bill. He said that this bill is an abuse of the U.S. tax code. The truth is that quality healthcare requires private investments. While mergers and acquisitions can have an impact on patient costs, there is little evidence to suggest that private equity has a role to play. This partisan bill is dead on arrival. It is important to get to the bigger picture before unleashing the IRS on investors and healthcare providers.

Chairman Neal offered an AINS. **Counsel** said that the amendment expands the reporting requirements to include information subsequent to acquisition of a controlling interest of a medical service provider, information relating to the disposition of interest of a medical service provider, and expands the items to be reported related to the medical provider's ownership or lease of real estate. This information is to be made publically available. **Rep. Doggett, Pascrell, Chu, Evans, Boyle** spoke in support of the bill. **Rep. Holding, Arrington, Brady, Smith, Davis** spoke in opposition to the bill.

Ranking Member Brady offered an amendment to the AINS. Ranking Member Brady said that private equity investments in Iowa have extended nursing practices into rural areas and have saved struggling hospitals in inner city Detroit. The amendment will ask the comptroller general to do a comprehensive report in an attempt to track down how federal subsidies change when all health care organizations and investors engage in mergers and acquisitions. **Rep. Doggett** spoke

in opposition to the amendment. Rep. Doggett says it takes a useful tool and converts it into a strongly worded letter. A GAO report is fine, but it is no substitute to the legislation brought about by the chairman. **Rep. Ferguson** spoke in support of the amendment. He said it is crucial to try to identify the root causes of a problem instead of rushing to punish supposed bad actors. **Rep. Pascrell** spoke in opposition to the amendment. **Rep. Kelly** said there is no harm in trying to collect more information. Congress spends too much time trying to identify bad actors before truly understanding the issue. Rep. Kelly urged his colleagues to support the amendment.

Ranking Member Brady's amendment to the AINS failed by a voice vote

Rep. Doggett offered an Amendment to the AINS. Rep. Doggett said this amendment is intended to address a single loophole that private equity firms may be exploiting. Rep. Doggett said the amendment would grant authority to ensure that a private equity backed firm owning the assets of a medical provider will satisfy the owner requirements that mandate transparency. **Chairman Neal** spoke in support of the amendment. **Ranking Member Brady** spoke in opposition to the amendment.

Rep. Doggett's amendment to the AINS was approved by a voice vote

The amendment in the nature of a substitute to H.R. 5825, as amended, was agreed to by a voice vote.

H.R. 5825, the Transparency in Health Care Investments Act of 2020 was reported favorably to the full House by a voice vote.

H.R. 5826, the "Consumer Protections Against Surprise Medical Bills Act":

Chairman Neal said that this bipartisan legislation puts patients first and ensures that the Ways and Means committee retains its jurisdiction. This approach recognizes the important private market dynamics between providers and payers.

Rep. Suozzi said the most important goal if this bill is to protect patients from surprise medical bills. This bill also attempts to ensure that providers and payers settle disputes between themselves before bringing in a third party. Finally, this bill maintains that no single party is treated unfairly or improperly burdened. This bipartisan piece of legislation has the strongest patient protections of any bill introduced. Furthermore, it does not favor providers or payers.

Ranking Member Brady said that this bill moves to fix a disastrous flaw in the healthcare system. It also strikes a balance between satisfying providers and payers. However, most importantly, it prioritizes the patient in all situations. It is important to recognize the private market forces at play. This is why a 3rd party arbitrator will be available when necessary.

Chairman Neal offered an AINS. **Counsel** said that the AINS adds an 'S' on page 79 line 23, and changes the two year time period to a 24 month time period on page 226 line 12. CBO estimates that this bill would save \$17.8 billion over 10 years. **Rep. Doggett** asked if the term private equity is included in the bill. **Counsel** said no. **Rep. Doggett** asked if all of the bills passed out of committee rely on an independent dispute process to resolve claims. **Counsel** said yes. **Rep. Doggett** asked if all of the bills require consideration of what's considered the median

in network contracted rate. **Counsel** said yes, but the way in which that information is used is different. **Rep. Doggett** asked if all of the bills require that bill charges are not included in dispute resolution. **Counsel** said yes. **Rep. Holding** asked what constitutes a response from a plan regarding a claim for payment which triggers an open negotiation process. **Counsel** said the response could be a payment or a written/verbal response from the plan saying they will not pay. **Rep. Davis** asked how to ensure that the mediator will weigh all information equally. **Counsel** said that the mediator will use information that reflects the unique experience, training and geographic differences of providers. Furthermore, the legislation requires that each party makes and offer and submits any relevant information.

Rep. Thompson, Wenstrup, Doggett, Arrington, Larson, Walorski, Blumenauer, Kelly, Pascrell, Estes, Delbene, Davis, Nunes, Brady, Sanchez, Chu, Moore, Beyer, Kildee, Evans, Smith, Schneider, Panetta, Sewell, spoke in support of the bill

Rep. Doggett offered an amendment to the AINS. Rep. Doggett said this amendment will strengthen the advance explanation of benefits by binding both insurers and providers to charges they have outlined in their explanation of benefits. Furthermore, it ensures that patients receive this information in the quickest way possible by requiring notification through electronic means and by mail. The amendment also would ban retroactive billing from insurers.

Rep. Doggett withdrew the amendment.

Rep. Doggett offered an amendment to the AINS. Rep. Doggett said this amendment would disqualify individuals who may have a conflict of interest from participating as an arbitrator. It would also ensure that certified entities cannot have ties to a physician staffing firm or medical management organization. Finally, this amendment would ensure that close family members of entities do not have professional, familial or financial ties to any healthcare stakeholders that may be a part of the dispute resolution process.

Rep. Doggett withdrew the amendment.

Rep. Doggett offered an amendment to the AINS. Rep. Doggett said this amendment states that if delaying already scheduled care puts a patient at risk, the patient can still get care from an out of network doctor and will only be required to pay no more than if the doctor were in network.

Rep. Doggett withdrew the amendment.

The amendment in the nature of a substitute to H.R. 5826, as amended, was agreed to by a voice vote.

Act, H.R. 5826, the "Consumer Protections Against Surprise Medical Bills Act" was reported favorably to the full House by a voice vote.