



MARY FELZKOWSKI

STATE SENATOR • 12TH SENATE DISTRICT

Testimony on SB 328: The Know Your Healthcare Costs Act

Senate Committee on Health

Senator Mary Felzkowski

12th Senate District

October 4th, 2023

Good morning Chairwoman Cabral-Guevara and Fellow Committee Members,

Thank you for taking the time to hear testimony on the Know Your Healthcare Costs Act.

Before Senator Bradley and I dive into why we felt it was so important to introduce this bill, and the ways we know it can help our constituents, I'd like to give you some background on where the idea for this bill came from.

In 2019, concerned about the rising costs of healthcare in our country, the President's administration issued a new rule requiring hospitals to post a machine-readable digital file that contains a list of standard charges for certain items and services provided by the hospital, as well as a consumer-friendly list of "standard charges" for certain shoppable services. After surviving a lawsuit filed by the American Hospital Association to block it, the rule was implemented in 2021. Finding enforcement of the rule to be almost entirely nonexistent at the federal level, the states of Colorado and Texas moved forward with their own bills to require this transparency, but with enforcement mechanisms at the state level. Earlier this year, this also became model legislation at the bipartisan National Conference of Insurance Legislators (NCOIL). This is where the idea of our bill comes from.

This bill requires that the exact same data that the hospitals are supposed to be sharing with the Centers for Medicare and Medicaid Services (CMS), also be shared with the Department of Health Services (DHS). DHS is tasked with monitoring each hospital's compliance, and maintaining a public list of non-compliant hospitals. If a hospital is found non-compliant, DHS must issue them a notice and work with them on a corrective action plan. If, following this process, a hospital is still found non-compliant, DHS has the ability to issue fines against the hospital, with the fines being proportional to hospital size (smaller hospitals with fewer beds receive smaller fines).

Now that we've outlined the bill, I'd like to turn it over to my co-author, Senator Julian Bradley for a moment.

As Senator Bradley briefly touched on, in addition to our constituents seeing a direct benefit from access to this information, they will also see an indirect benefit through their employer gaining this valuable tool to help control healthcare costs. As our employers sit down with their consultants and begin to design the benefit plans for their employees, they can't make an informed decision *without* information. Healthcare costs are often either the 1st or the 2nd largest expense to a business. Without a tool to control that cost, employers are limited in their ability to re-invest in their businesses, and unable to provide raises and other benefits to their employees as healthcare costs increasingly eat away at their bottom line. In the past 5 years alone, the average premium for coverage has risen **20%**, with a price tag of \$22,463 per person in 2022. This doesn't even take into account the co-pays and deductible that the employee will also have to pay. This amount is alarming to employee and employer alike. We'll hear from some employers later today on exactly how they would use this data to alleviate the healthcare cost pressure on their employees.

In the interest of saving us some time, and taking advantage of the fact that I'm a member of this committee, let me ask the first question preemptively, "If this is already federal law, why are we creating these duplicative regulations at the state level? I'm sure everyone's working on it, why don't we give it some time?" This is an important question, and the first question that I asked when I was introduced to this legislation. To me, the answer became clear quite quickly: The federal government *cannot* be trusted to handle something like this effectively. CMS's enforcement actions have been inconsistent, lackadaisical, and sporadic. Four months after the law went into effect, they issued a handful of warnings. Their warnings are usually followed by crickets. **For months**. CMS, on average, takes 185 days to follow up with a hospital after they've given them a warning before moving on to the corrective action plan phase. Nearly **6 months** go by before there is even the smallest step forward towards possible transparency.

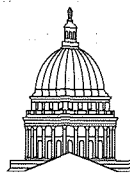
Now, there are many estimates and methodologies to calculate compliance. Some notable studies say 33% of hospitals nationwide are fully compliant, others estimate 70%. But this fact is indisputable: of the 6,129 hospitals in the United States, only **14** hospitals have been fined for non-compliance as of today, almost 3 years after this law went into effect. That math doesn't add up, which tells me CMS is not doing their job- and I don't have the patience to wait for them to magically transform into a well-oiled machine. And I most certainly am not going to ask my constituents to wait when the stakes are this high for them.

There is a silver lining to all of this that I'd like to end on. While initial CMS guidance was murky, and CMS is as effective as shoveling the sidewalk while it's still snowing, compliance *is* possible. Our very own UW Health is held up nationally as a shining example of a hospital 'doing transparency right'. In fact, I imagine that many of the hospital leaders we'll hear from today may have high compliance ratings. I applaud them for the efforts that they have taken. Nonetheless, I believe we all need accountability. It is a grave disservice to our constituents, and your patients, for us to wait for Washington on this one.

For those that are compliant, who are frustrated about the bill demanding extra forms or creating work for your data vendors, I welcome any compliant system to come see me in my office to talk. Our intent is not to cause you undue burden. We can sit together with DHS and work on clarifying language to address your concerns. I also encourage non-compliant hospitals to reach out to their compliant colleagues for advice or suggestions on working towards this goal.

I truly do believe we all want the same thing- informed patients who have every tool in the toolbox they can get, so that they can seek the care they need to stay healthy.

Thank you for listening to our testimony, and thank you in advance for keeping an open mind and diving into this bill with us today.



JULIAN BRADLEY
WISCONSIN STATE SENATOR

Senate Bill 328: price transparency in hospitals and providing a penalty.
Senate Committee on Health
Wednesday, October 4

Chair Cabral-Guevara and committee members thank you for hearing this bill today.

Our constituents are struggling to keep pace with rising health care costs. A recent survey found that 73% of Wisconsinites believe their out-of-pocket costs are unaffordable. These rising costs impact families and businesses every single day.

Often the bills that are introduced around health care costs focus on who should pay. Should the employer pick up the rising cost of health insurance or should the employee have a higher monthly premium? Should the consumer have a higher copay for a prescription or should insurance pick up a higher share of the cost?

This bill breaks that mold by instead focusing on the actual cost being paid. By making cost information available to consumers, I am certain that consumers when appropriate will shop for services and save hundreds or even thousands of dollars.

Over the last several years we have seen the rise of high deductible health plans (HDHP) and health savings accounts (HSA). According to a survey of 2021 data by the University of Minnesota, 63.1% of Wisconsin's private-sector employees who were enrolled in a health plan were enrolled in a high deductible health plan, just ahead of the national average of 55.7%. The foundation of these plans is the belief that if consumers are able to save their money they will choose more cost efficient care for themselves.

But even with both literal and financial skin in the game, it is difficult for consumers to rationally navigate the marketplace if the cost of procedures is not readily available to them. This information gap is addressed in two ways by the bill. First, the bill requires hospitals make available a digital file in a machine readable format pricing data. Second, the bill requires that this same pricing information be available in a prominent location on the home page of a hospital's website.

By making the cost of non-emergency procedures transparent cost savings will be generated at two levels.

First, by making this information available in a machine readable format, employers can work on their own or with providers, insurers and consultants to make a more informed choices about the actual total cost of health care for their companies and employees. Second, individual consumers will be able to shop prices for procedures like CT scans. In Wisconsin, the

cost of a CT scan can range from \$858 to \$2,803, when WILL completed their report on this topic. Today, the same search on Turquoise Health will generate 85 options in Wisconsin or within 10 miles of our border for a CT Scan without contrast ranging from \$107 to \$4,142.

Armed with this information both employers and employees will be able to make informed decisions and when the value proposition is right, save their hard earned money.

Thank you again for hearing this bill. I would encourage you to support the bill and be happy to answer any questions.



Testimony in Opposition to SB 328 Senate Committee on Health

October 4, 2023

Chairwoman Cabral-Guevara, Ranking Member Hesselbein and Members of the Committee, my name is Eric Borgerding and I am here speaking on behalf of the Wisconsin Hospital Association and over 130 members across Wisconsin in opposition to SB 328. I will be joined throughout the hearing by some of those very members, some of whom will be familiar to many of you having met with them recently in your district. They are on the front lines of running hospitals during some very challenging times, including complying with the growing number of government, payer and consultant data and information demands and cost and quality metrics of varying methodologies that seemingly change weekly.

We appreciate this opportunity to discuss SB 328, including the stated reasons for this legislation *in Wisconsin*, its purpose *in Wisconsin* and the state of price transparency *in Wisconsin*, where hospitals have been transparency leaders for over two decades.

Wisconsin hospitals are proud to be the cornerstones of their communities and in more and more ways every year, including serving patients 24 hours a day, every single day, regardless of payment, regardless of insurance company co-pays or deductibles hospitals are compelled to collect, regardless of whether a patient is insured at all. They are de facto nursing homes, public health agencies and housing and food resources. They manage care every day from their EDs and inpatient units, despite not being MCOs, and they all too frequently play a role as law enforcement. They provide services and deliver care in communities across Wisconsin that no one else is or would if the hospital was not there.

Hospitals are the ultimate Wisconsin health care safety net, and play that role while continuing, for years now, to provide some of the highest quality care in the nation. In fact, in August it was reported that Wisconsin has the fourth largest number of CMS five-star-rated hospitals in the country. Hospitals do all this while operating in an environment of shrinking reimbursement, skyrocketing labor, drug and supply costs, and growing amounts of federal, state and payer bureaucracy, including never ending, and ever changing, requirements for data and information from an expanding universe middlemen that occupy more and more of the space between patients and their providers.

Our hospitals also have a long and well demonstrated track record of supporting price and quality transparency, and I want to say very clearly, that WHA's opposition to SB 328 should not be misconstrued or misrepresented as opposition to price transparency. When it comes to transparency, Wisconsin hospitals again receive top marks. According to data from Turquoise Health, which has downloaded the mandated machine readable files from over 5,400 hospitals (nearly all of the acute care hospitals in the country), Wisconsin hospitals average 4.6 out of 5 stars for the completeness of their data.

Turquoise is one example of how the private sector is responding very quickly to the transparency mandate and is already using the hospital data to produce price information that is publicly accessible through free online tools. This is well ahead of any state legislation and is being done without new state rules, regulations, fines or state funding data entities and dashboards.

In May, a coalition of thinktanks stated in their memo to the Legislature supporting SB 328 that "Under the bill, hospitals would be required to make a machine-readable file (the "MRF") that contains standard

charges for services provided by the hospital that could be used by the private sector to improve public-facing price databases, *like Turquoise Health*.” Reading that memo, one might think that federal law does not already require hospitals to publicly post MRFs ... but it does, and they are. In fact, what the coalition overlooks is that the very group they point to as an example, Turquoise Health, gives Wisconsin one of its highest ratings for completeness of their publicly posted, federally mandated, MRFs (4.6 stars out of 5 stars). We know this not just because it’s publicly available and very easy to find, but also because WHA and our members have had numerous direct conversations with Turquoise the past year to collaborate on compliance. This is hardly the disposition of an industry that some claim is ignoring the federal mandate.

But while Turquoise is one great example of how the mandate is working, they will tell you that they are not the arbiter of *compliance* with federal rules, nor are any other groups purporting to judge or give awards for compliance. *Enforcement is the job of CMS*. And to date, not one Wisconsin hospital has been fined by CMS for failing to comply with the federal transparency mandate. The lack of penalties in Wisconsin is not because CMS is not enforcing the law, in fact many Wisconsin hospitals have been hearing from and engaging directly with CMS about their compliance since 2021, the year the mandate first went into effect. Further, the federal Office of the Inspector General (OIG) has been reaching out to hospitals, including in Wisconsin, to gather their input on the challenges of complying with the federal transparency mandates.

Understanding this issue of enforcement and compliance is important because for about a year now it’s been stated that Wisconsin needs legislation like SB 328 because, it’s been said, that it’s easier for hospitals to just pay the fines than to comply with the law. It has been stated as fact that hospitals are paying their fines and walking away from the federal transparency law. This is completely inaccurate. Again, not one Wisconsin hospital has been fined by CMS.

Since no Wisconsin hospital has been fined to date, it is now said that we need legislation like SB 328 because enforcement of the law by CMS is “almost entirely non-existent.” As of June 27, CMS had issued 906 warning letters to hospitals and required 371 corrective action plans. After a comprehensive compliance review, over 300 hospitals were determined by CMS to not require any compliance action and another 457 addressed deficiencies and received a review closure notice from CMS. Contrary to claims, hospitals do not just “walk away” from CMS letters, nor have we in Wisconsin and you will hear more about this and CMS enforcement, in later testimony.

Further, CMS is now performing 200 full audits per month and on April 27, released updated guidance on their process for monitoring and enforcing the hospital price transparency mandate. Coming changes include: immediately requiring corrective action for noncompliant hospitals (no longer issuing warnings), requiring a hospital to be in full compliance within 90 days of receiving a notice for corrective action, and automatic civil monetary penalties for failures to comply. On July 13, CMS proposed rules to standardize hospital files and data elements, clarify where the files need to be located on hospital websites, and further strengthen their assessment and enforcement process, including requiring hospitals to attest to the accuracy of the data. And it is worth noting, that these provisions are embedded in a must pass rule governing Medicare hospital outpatient reimbursement.

And, it is also important to understand that the federal transparency regulations do not stand alone. Hospitals are also required to comply with the federal No Surprises Act and to provide price estimates to patients within specified days before they receive a service.

So, contrary to what some would have you think, CMS is not almost entirely ignoring enforcing the hospital transparency mandate, nor is CMS, nor is the OIG, done gathering input and modifying the regulations. To impose state level rules and requirements on top of all that, actual state statutes that will become outdated with every update to federal rules and law, will only add to confusion and resource intensive administrative burdens already inundating hospitals. To that point, by our count SB 328 differs in nine substantive ways from just the proposed changes in the CMS payment rule.

Another reason some national groups are backing this type of legislation is the claim that hospitals are taking advantage of the millions being disenrolled from Medicaid. One of these groups labeled hospitals, which includes those present in this room, as cartels and extortionists ready to pounce on the most vulnerable in our society, these former Medicaid enrollees, by ignoring the transparency mandate and purposefully hiding prices so they can gouge these unsuspecting, newly uninsured families. According to this group, "The predatory American healthcare system is about to encounter new prey in the form of millions of families thrown off the Medicaid rolls." I can assure you, that NOTHING is further from the truth about Wisconsin hospitals and I am quite certain Wisconsin's hospitals are doing as much or more than anyone, except DHS, to help people reapply/qualify for coverage, including Medicaid.

I dwell on this, probably too long, because this is the type of terrible rhetoric being used, by some, to demonize Wisconsin hospitals as justification for legislation like that before you today.

Aside from the "why" for this legislation, let me address the "how" of this legislation, and the burden of complying with an additional set of state rules, deadlines, fines, and definitions on top and different from what federal law already requires. This bill does not mimic federal law and will add administrative cost to what most acknowledge is a system that is far too costly, too complex and too filled with regulatory and administrative hurdles that drain resources from patients care.

You know, it's not often these days that WHA finds itself in agreeing with our friends at WMC. But one area where we seem to align is this very issue. WMC has long opposed creating new state laws and regulations on top of those at the federal level, and for very good reason. Recently, they stated that Wisconsin should align its "employment and environmental regulation with corresponding federal requirements to eliminate the additional cost and complexity of complying with overlapping and "Wisconsin-only" regulations." WMC further states that Wisconsin should "Ensure that newly promulgated rules are not more restrictive than federal requirements." That's very well said, and we could not agree more, especially as it relates to SB 328.

To the point, by our count, SB 328 contains at least 18 "Wisconsin-only" substantive differences compared to the current federal mandate.

In fact, Wisconsin has been heading in the opposite direction of this bill, avoiding creating new state laws on top of existing federal laws, and there is a great example of this in health care. In 2014, WHA worked closely with then Representative Howard Marklein and Sen. Leah Vukmir to pass legislation to repeal the bulk of the "overlapping Wisconsin-only" hospital regulations, instead following the federal CMS hospital regulations. This was done to streamline administration and enforcement and mitigate confusion and cost resulting from separate state and federal regulations, especially when trying to figure out which set of rules to comply with when they inevitably become misaligned.

The stated reasons for this legislation – hospitals are just paying the fines and walking away, hospitals and CMS are ignoring the law, or hospitals want to hide prices to prey on the uninsured - are simply not accurate *in Wisconsin*, and that is why WHA asks you to oppose SB 328.

Lastly, and to reiterate, we do not oppose transparency and our position on this legislation should not be construed as such. We are anxious to work with anyone seeking to foster fair competition, including engaging in equal enforcement of this federal law, and anyone committed to developing broad based strategies that will reduce the cost of providing care and assure savings make their way to consumers and employers, ultimately resulting in a more affordable and accessible health care system.

Thank you for the opportunity to comment on this legislation, I would be happy to take any questions or provide additional information in follow-up.



Door County Medical Center

IN PARTNERSHIP WITH HOSPITAL SISTERS HEALTH SYSTEM

Testimony in Opposition to Senate Bill 328
Brian Stephens, CEO – Door County Medical Center

Senate Committee on Health
October 4, 2023

Chair Cabral-Guevara, Ranking Member Hesselbein and members of the Senate Committee on Health, thank you for giving me the opportunity to speak with you today. My name is Brian Stephens and I am the CEO of Door County Medical Center in beautiful Sturgeon Bay, Wisconsin. For any of our residents or visitors from around the country who might accidentally take a fall at Fall Fest next week, our organization will be their next stop. I am also the Chair of the Transparency Task Force for the Wisconsin Hospital Association.

As a constituent of Senator Jacque's, I also want to thank him for taking the time to meet with me and my team to discuss our opposition to Senate Bill 328. We had a very engaging and thoughtful discussion leading up to this hearing. We appreciate the time he has spent understanding what we are already doing to support our patients and his constituents in Door County.

I want to speak with you today about Door County Medical Center's approach to price transparency and pricing in general. For me, this has been a long journey and a big part of my healthcare career. Prior to my role as CEO, back when I started at DCMC 18 years ago, I was the Patient Financial Services Director. Most people would think of that as a boring but necessary role in a hospital...things like billing, fighting insurance denials and delay tactics. I have always seen it differently. I know that our Financial Counselors can change lives by working with patients to provide them with accurate estimates, reasonable payment plans, and financial assistance when it is needed.

Just like the Wisconsin hospitals as a whole, I believe that Door County Medical Center has always been on the forefront of price transparency. In 2006, we implemented our first patient estimate tool, a homegrown Microsoft Access database where we were able to choose from over 200 procedures, enter a patient's insurance company, deductible, co-insurance, and maximum out-of-pocket, and produce an estimate for those most common procedure within minutes. After our first year of generating patient estimates, we performed a "look back" and found that our accuracy rate was 98%. We thought that was pretty good for a homegrown solution. We had our share of challenges that are unique to healthcare, where the patient believes they are receiving one type of procedure but the treating provider ends up recommending, in their medical judgment, something different. Building this solution was a good lesson for me, nearly two



decades ago, as a young healthcare leader that quoting prices for medical procedures was different than quoting prices for new tires, or any number of other products.

Fast forward 17 years and we now have a sophisticated patient estimate tool right on our website that allows patients to calculate their own estimates, in addition to the estimates generated by our Financial Counselors and sent proactively to patients. By the end of this year, we will have provided almost 3,000 estimates to our patients. We also have a machine readable file that is fully compliant with federal price transparency regulations, but that is not without some expense to our organization. Prior to the federal law being enacted in 2021, we spent over \$20,000 to implement our automated tool and machine readable file. Compliance with this very complicated federal regulation has been a priority for us, yet it is a constantly evolving process with new rules being proposed by the Centers for Medicare and Medicaid Services (CMS) in just the last few months.

It is worth noting that we continue to spend about \$63,000 per year to maintain compliance with federal law, but more importantly to provide the most accurate estimates possible to our patients. In addition, we recently implemented a new patient app called My DCMC. The first thing our patients see when they open that app are the options to get care now, so that individual who takes an accidental fall at Fall Fest can find out right away whether they should go to the ER, Urgent Care, *DirectCare*, or engage in a virtual visit. Right on our app, they will find the current wait times and approximate price points for those services.

The investment in transparency tools is important to us, because we believe that our services are fairly priced and we want our patients to know about it. At Door County Medical Center, our philosophy is to do the heavy lifting of process improvement each and every day, to ensure that we can live within low annual price increases each budget year. In fact, since 2005, we have not had an annual price increase that exceeded 3%. That might come as a surprise to some of you. We have not increased our prices more than 3% annually in almost two decades. All we read about in the news is the high price of hospital care, but over that same 18 years that we have maintained low price increases, our local businesses have experienced double-digit health insurance premium rate hikes time and time again. There is a disconnect in this country between the concerted efforts of hospitals to provide reasonable and transparent prices, and the costs that people are paying for insurance, and unfortunately hospital price transparency efforts have not put a dent in that dichotomy. Perhaps we need to be asking for more transparency from health insurance companies to understand the real drivers of healthcare costs in our country.

Perhaps hospitals have just become a good punching bag for folks who need an effective sound bite. The reality is that despite our whole-hearted commitment to providing reasonable, up front prices, transparency has its limitations. Did I mention that we'll be celebrating Fall Fest in Door County next week? What are the odds that our hypothetical fall victim will take the time to bring out his or her phone and search for the most affordable hospital or clinic prior to seeking treatment? Much less those who have



Door County Medical Center

IN PARTNERSHIP WITH HOSPITAL SISTERS HEALTH SYSTEM

been more severely injured or who are faced with a diagnosis of cancer. Unfortunately, for the most expensive hospital procedures, taking the time to stop and seek out a price estimate is just not high on the priority list. That is why it is so important that Wisconsin hospitals continue to do everything we can to not only provide some of the highest quality care in the country, but also to commit to providing that care at reasonable prices, whether our patients stop to check those prices or not. I believe that we are doing that. I believe that physicians and nurses and leaders of Wisconsin hospitals wake up every day ready to serve. Nobody is driving in to work thinking, "How can I price gouge a patient today?" More likely, they are praying that God will give them the energy and the compassion that they need to serve their community, day after day, and that lives will be saved.

In closing, I would like to ask you, the members of the Senate Committee on Health to help us. We need your help bringing awareness to the great work that Wisconsin hospitals are doing every day. We need your help in making sure patients know that they can find hospital prices on our websites, at the Wisconsin Hospital Association's PricePoint site, on publicly available sites Turquoise Health, and through one-on-one conversations with our Financial Counselors. The information is out there and as the Chair of the Wisconsin Hospital Association's Transparency Task Force, I can confidently say that Wisconsin hospitals are committed to not only price transparency but also transparency on quality, patient experience, and a whole host of other measures of our performance. We are an open book.

The other thing we need your help with is to continue to strive for regulatory relief rather than more red tape. Hospitals are already highly regulated, both at the federal and state level. During the public health emergency of the last few years, we were grateful to receive some regulatory relief so we could mobilize and care for our communities throughout the Covid-19 pandemic. One example of this at Door County Medical Center was the implementation of our drive-through testing site. We were fortunate to have a former County ambulance garage on our property that could quickly be converted for drive-through Covid testing. In the absence of regulatory relief, that would not have been possible without a state survey and meeting hospital space requirements. What we found is that our patients not only appreciated this drive-through testing option, but that they actually preferred it. In the months that have passed, we have been able to fully renovate the old ambulance garage and we are now open for drive-through blood draws and all sorts of testing. Older folks in Door and Kewaunee Counties no longer have to park their car and brave the Wisconsin winter for a simple blood draw. Families with small children or pets in the back seat can drive right in and get the testing that they need, with a sticker or a dog treat to go with it. This is an example of the innovation and higher level of service that can come about through regulatory relief. Wisconsin hospitals do not need another law with which to comply. We need less bureaucracy and more freedom to innovate and provide better solutions for our patients and the communities that we serve.

Thank you for your time this morning and I would be open to any questions that you have.



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**Testimony to the Senate Committee on Health
Opposition to Senate Bill 328
Cheryl Miller, Executive Director, Patient Account Services
October 4th, 2023**

Good morning. Thank you, Madam Committee Chair and members of the committee. I am Cheryl Miller, Executive Director of Patient Account Services for Aurora Health Care. I am speaking against this particular legislation not because we oppose transparency, but because the requirements in the bill would create unnecessary state-level regulations when onerous regulations already exist at the federal level.

For background, Aurora Health Care is the largest health system in Wisconsin and a national leader in clinical innovation, health outcomes, consumer experience and value-based care. We are the state's largest private employer, serving patients across 17 hospitals, more than 70 pharmacies and more than 150 sites of care. We are committed to providing care that makes our communities healthier, and I am proud to share with you how we promote *financial* health in patient account services, which is the work I lead.

Within Aurora, one of the highlights of our system is our robust online cost estimator tool where a consumer can self-serve in creating an estimate from a listing of 300 or more of the most common procedures performed at each of our hospitals, with the exception of our psychiatric hospital which does not provide that many unique services. A couple weeks ago, I had the privilege of demonstrating this tool to Senator Carpenter during his time visiting us at St. Luke's Hospital in Milwaukee.

Our LiveWell app allows our patients to create an estimate using the patient's specific insurance coverage, remaining deductible, coinsurance/applicable copays and out-of-pocket limits. This is the information that is most relevant to a patient, since we are able to provide them with a clear figure of what they will actually have to pay.

For patients who lack online access or do not want to self-serve, these same estimates are available by calling one of our several financial advocates (Aurora's financial counselors). We also strive to provide all our patients who have scheduled procedures an estimate, even without their request. This calendar year alone, our advocates provided nearly 350,000 of these estimates for patients.

Further, if a patient expresses any concerns about their ability to pay for the procedure, we screen them to look for any available resources the patient is eligible for and will help them to apply for any we locate. We talk with them about options including interest free

payment plans, screen them for charity care or other funding sources, and check for helpful options in foundations, copay assistance, drug replacement, and chronic disease programs.

Depending on eligibility, we also help patients enroll in Medicaid or the ACA Marketplace. But we make sure we also educate about types of coverage (high deductible vs low deductible), Health Reimbursement Accounts and Flexible Spending Accounts. The feedback we received both directly and through improved consumer experience scores show that patients see these conversations as meaningful and demonstrate our commitment to their wellbeing, including their financial wellbeing.

To fully comply with federal requirements, we also provide links to lists of our Standard Charges, Average Charges by Diagnosis related group, and payer-specific negotiated rates including in a machine-readable format, for each of our hospitals. We also offer links on our website to Wisconsin's PricePoint tool to compare our fees and quality data to that of our competition/peers.

Unfortunately, the complexities involved in meeting all the federal rules necessitate the hiring of analytics experts who spend many hours and great deal of effort to create the pricing files. In total, these machine-readable files include approximately 62,000 individual lines or approximately 2.8 million cells of data corresponding to specific services we offer the communities we serve. We end up using significant resources to produce something that very few consumers use because consumers are better informed when they work through our financial advocates or price estimator directly.

Therefore, I respectfully ask that you not add an additional layer of unnecessary complexity by enacting new state level regulations on top of our existing federal obligations. Instead, please allow us to focus our resources on the tools we know are truly meaningful to patients. If you'd like to see all of this for yourself, please feel free to visit our website (aurorahealthcare.org), navigate to "billing and payment" and you will see the robust services we already offer.

Thank you for your time and consideration. I'd be happy to answer any questions.

Testimony in Support of Senate Bill 328, The Know Your Healthcare Cost Act
Erik S. Sonju P.E., President – Power System Engineering
Wisconsin Senate Committee on Health
October 4, 2023

My name is Erik Sonju, and I am the President of Power System Engineering (PSE). PSE is a professional services firm with approximately 110 subject matter experts, headquartered in Wisconsin. As a private business owner and employer responsible for offering health care benefits to over 100 individuals and their families, I support, and I am in favor of Senate Bill 328.

I would like to start out by providing you with three high-level statistics that I hope will illustrate why the status quo is failing Wisconsin employers, employees, governments, taxpayers and pretty much everyone who shares the burden of paying for health care in the US. If by the end of this hearing you do not agree that SB 328 should move forward, I hope you will at least take away that we desperately need something to give.

The first statistic is the US is spending over \$12,500 per person on health care, which is almost double the average of other wealthy countries, yet there is no justification. We certainly don't have two times higher life expectancy in the US. In fact, our life expectancy in many cases is lower. In other words, the productivity of the US health care system is extremely inefficient when assessing the inputs and the outputs compared to other developed countries.

The second statistic is Wisconsin has the fourth highest costs in the nation when it comes to hospital care. That means that employers who have businesses and employees in the state are burdened with higher hospital related costs than other businesses that have chosen to operate and employ individuals elsewhere.

And the third statistic is the labor force is increasingly facing higher and higher deductible costs. The average employee's deductible today exceeds \$1,500 for single coverage. It was about half that amount just 10 years ago. The increasing cost of health care is to blame, and it has been particularly hard on smaller businesses and their employees who are on the higher end of that average.

While dishearten, these statistics are not a surprise when compared to the challenges I am facing as an employer of a small firm. Over the last three years, our business and employees have experienced consecutive annual health insurance premium increases of 22%, 16%, and 28%, which is the largest annual expense increase we incur; far outpacing the annual rate of inflation. My employees love what they do and enjoy the culture of our company, however they are expressing extreme dissatisfaction in the increasing cost of health care benefits. As an employer these increases are not sustainable and will cause us to eventually lose employees and/or customers who also share in the burden. The most frustrating part for me is that although it is my responsibility to provide health care benefits to my employees, I have no meaningful way to manage increasing costs, measure overall value, or make health care decisions. I must trust the system to work...and that trust is eroding rapidly.

Committee members, I ask that you to make this a priority and stand up for us by putting the pieces in place that guarantees accessible and comprehensible cost transparency across the health care system necessary to create efficiencies derived from a consumer driven free market.

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Testimony in Opposition to Senate Bill 328 Melissa Mangan, Chief Financial Officer – Prairie Ridge Health, Inc.

Senate Committee on Health
October 4, 2023

Chair Cabral-Guevara, Ranking Member Hesselbein and members of the Senate Committee on Health: thank you for the opportunity to present this testimony today in opposition to Senate Bill 328. I'm Melissa Mangan, CFO at Prairie Ridge Health, a rural critical access hospital in Columbus, Wisconsin.

As a critical access hospital and not-for-profit entity, we are subject to many regulations including the CMS price transparency, No Surprises Act and IRS rule 501(r) to name just a few. We take compliance for all of the many regulations we are subject to very seriously. In addition, and I would argue more importantly, we are committed to best informing our patients about all aspects of their care including the cost, as we know that personal financial situations definitely contribute to their overall health and wellbeing.

I'd like to start by sharing the process we at Prairie Ridge Health (PRH) took to ensure compliance with the federal price transparency regulations. In the fall of 2020, we engaged with Panacea, a third-party vendor with software to compile the claims data and complete the Machine Readable File and the consumer display for the shoppable services. In order to be in compliance by 1/1/2021, we manually built the best spreadsheet we could internally for both the Machine Readable File and shoppable services and posted them to the PRH website. These spreadsheets took our team over one hundred hours to run the data as well as to analyze the reimbursement for each of our different payer agreements for each of the services. For a small Finance team of five, this time investment was significant. As soon as we had the data available from Panacea, we took the manual files down and placed the link to the new Machine Readable File, in addition to the link to the shoppable services consumer display on our website. It's estimated it cost PRH over \$50,000 to fully implement the price transparency requirements and annually it costs about \$45,000 to update and validate the files.

It has been a long standing practice of PRH to provide whatever our patients needed in accessing coverage for their care and knowing their out of pocket costs. We have four Patient Financial Counselors on our team whose primary task is to help our patients by proactively estimating the financial aspect of their care and assist them in seeking coverage, offering payment plans or financial assistance to help pay for their care.

The Patient Financial Counselors pre-register most scheduled hospital services, checking for prior authorizations and also with the individual insurance plans to inform patients of their expected out-of-pocket costs for that service. If the insurance is one of the few that we're out of network for or a patient is self pay, they provide good faith estimates.

If any patient, whether they have insurance or not, expresses financial hardship or concerns regarding their ability to pay their bill, the Patient Financial Counselors utilize anything they have in their toolbox

PRAIRIE RIDGE HEALTH LOCATIONS

Hospital

1515 Park Ave
Columbus, WI 53925
920.623.2200

Columbus Clinic

1515 Park Ave
Columbus, WI 53925
920.623.1200

Beaver Dam Clinic

134 Corporate Dr
Beaver Dam, WI 53916
920.356.1000

Marshall Clinic

301 W Main St. • PO Box 418
Marshall, WI 53559
608.655.8181

Prairie Ridge

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to assist our patients. They may help the patient get started on the Am I Eligible process for Medicaid or help guide the patient to the Marketplace Exchange during open enrollment. They also will proactively determine whether the patient could be eligible and assist patients in applying for our financial assistance program called Community Care. This summer, they've answered the request from the Wisconsin Department of Health Services in helping to notify our patients who are about to be disenrolled from Medicaid, reaching out to each one and alerting them to watch for the letter in the mail about the process. How to access the Patient Financial Counselors for estimates or any other service is included on our website, at all of our registration locations, mailed to any patient who comes through the emergency department without insurance, and also on every patient statement. They are physically located off the lobby in our Main Entrance and accept walk-in appointments.

The Patient Financial Counselors have offered patient estimates and out of pocket estimates, for anyone who requested one for a very long time. Dating back to 2016, we have had an internal quality goal regarding the provision and timeliness of estimates. We're committed to informing our patients what their care is going to cost and have been long before we were required to do so.

Thank you very much for this opportunity to provide this testimony today.

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**Testimony before the Senate Committee on Health
2023 Senate Bill 328
October 4, 2023
John Russell, CEO – Prairie Ridge Health**

Committee Members,

Good morning, I'm John Russell, CEO at Prairie Ridge Health a rural critical access hospital in Columbus, Wisconsin. Thank you for the opportunity to testify in opposition to Senate Bill 328.

I would like to start off by saying Prairie Ridge Health is in compliance with the CMS Transparency regulations. As an organization Prairie Ridge Health has been a leader in transparency and we take these regulations very seriously. In fact, you heard Melissa testify that we do many things that are not required, in order to make this process easier for our patients and communities. We will continue to do these things without additional regulations or legislation.

It is also important to note that complying with all regulations comes at a cost at a time when expenses are up significantly more than reimbursement. My communities need health services from us and any additional costs and time for my team detract from the resources we have to serve our communities.

Personally, I believe in the free-market, however healthcare is not a free-market system. The complexity of hospital billing is largely driven by government regulations and requirements. I understand the draw of examples like the Surgery Center of Oklahoma, but it is very important to note these organizations don't serve patients on government payors or complex patients needed post-surgical hospital care. Our Wisconsin hospitals serve all patients, complex or simple without regard to their ability to pay for their services. In addition, we maintain expensive Emergency Rooms and Intensive Care Units to serve our communities. These are huge costs for our organizations.

In my experience as a health care leader, I have found duplication of Federal legislation at the State level creates confusion for regulators and hospitals. One recent example is DHS 124, which codify the Condition of Participation for Hospitals in the State of Wisconsin. For years Wisconsin Hospitals operated under two sets of redundant regulatory standards. It took years to get this fixed through the regulatory process.

Please don't add unnecessary regulatory burden for Wisconsin hospitals. Thank you again for the opportunity to testify.

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Testimony in Opposition to Senate Bill 328
Jesse Tischer, SVP & President Regional Markets – Aspirus Health
Lori Peck, VP of Revenue Cycle – Aspirus Health
Senate Committee on Health
October 4, 2023

Chair Cabral-Guevara, Ranking Member Hesselbein and members of the Senate Committee on Health

Introduction

- I am Jesse Tischer, SVP & President of Regional Markets at Aspirus- Also a Critical Care Paramedic for Aspirus Medevac across the Northwoods of Wisconsin
- Aspirus is a non-profit health system which covers over 35,000 square miles of Wisconsin and the UP of Michigan-a very rural footprint which includes 17 hospitals, 75 clinics, home health and hospice care, pharmacies, critical care and helicopter transport, medical goods, nursing homes, high-quality affiliated physicians, and a health insurance company.
- We are the essence of rural health and cover many of the same constituents as you-whether it is where they live and work or where they recreate and enjoy outdoor Wisconsin!
- We do this through the skilled hands of our over 10,000 employees, including 1,000 physicians and Advanced Practice Clinicians. Senators Testin and Felzkowski can attest to the great people working in our facilities across areas they represent!
- The Senate Health Committee has done some great work focusing on the great health provided across Wisconsin. My desire would be that we could collaborate and focus on some of the difficulties our state caregivers and ultimately our patients are dealing with daily. The key areas we continue to spend great focus on include quality at a financially sustainable margin, payor difficulties, attracting and training students, and discharging patients to the appropriate care setting.
 - Quality at a Financially Sustainable Margin: Quality at Wisconsin Hospitals and across the Aspirus system are some of the best in the nation. Wisconsin hospitals are also providing care in an environment that requires fiscal stewardship. Aspirus was able to provide care across our entire region yet only produced an operating margin of 1.9% and...we did well compared to our peers. With that 1.9%, we must invest in facilities, equipment, our people, and other needs. How many businesses would remain open with only a 1.9% margin?
 - Payor Difficulties: Payors who change coverage decisions or make policy or process changes on a regular basis create challenges for Wisconsin patients and providers. Last year alone, Aspirus saw over 1,500 policy “adjustments” made mid-year by the insurance companies. That is a rate of 5 a day if insurance companies were working every day of the year like we are. One of our largest payers stopped recognizing changes to providers in our service for 10 months last year – which resulted in us providing millions of dollars of care without reimbursement until the insurer slowly fixed its systems. Of course, for the entire time, the insurer was collecting premiums from the responsible employer, so they were not harmed.

Further, we are seeing more and more insurance companies denying patient care as a way of increasing their profits. How is a patient able to keep up on these impacts when their insurance providers make changes wantonly?

We would suggest that many Wisconsin residents are more harmed by these insurance company practices that make understanding and receiving coverage more difficult than the ability to understand provider pricing.

- Attracting and Training Students: Attracting Wisconsin youth into health professions so that they stay in Wisconsin to provide care. Earlier this year, I was talking with one of our board members who is a health educator at a local University who shared with me that there has been a drastic decline in students entering the health and sciences majors. The number she shared was a 24% reduction over the last three to four years. I would like to see our state work to change that to a 24% increase!

Ensuring adequate educators are available to those students so that they can enter their health profession of choice. I am beginning to hear about national openings in health training programs because there are not enough instructors for the students. Perhaps this is a result of the supply and demand of my previous comment. How can Wisconsin help ensure that all students who want to be educated in Wisconsin can access instructors?

- Discharging Patients to the Appropriate Care Setting: We remain significantly challenged with discharging patients out of the hospital into post-acute care settings. These delays cause burnout among our staff and slows the recovery for patients. In hospitals, patients receive the highest level and most resource-intensive care. We can find solutions that will improve care, reduce costs, and better utilize our hospital care teams to treat those patients who need us.

About Legislation

- Bluntly put, Aspirus doesn't believe that there is need to add this state legislation on top of an already burdensome federal regulation.
- Aspirus believes that well educated patients make better decisions when they understand not only the clinical implications but the financial implications of their decisions. That is why we put so many resources toward ensuring this effort. My colleague Lori will describe the patient specific price estimation tools Aspirus already has in place in further detail. Mind you, these are much more patient facing and patient understandable than a machine-readable format.
- Aspirus believes that it is our calling to assist the entire well-being of patients. That is why we develop policies and practices to assist our patients. Lori will describe our patient financial assistance center in further detail.
- Federal transparency regulations were put into place with many of us left to figure out what was meeting the requirements. Early on, CMS completed audits and still does. Aspirus received one of these audits in November of 2021 and through this process, CMS identified an area of improvement for us-it was something as simple as a "dash instead of a period". Aspirus responded diligently and made the changes required to our posted information. After we submitted our plan of correction and the correction itself, Aspirus has been deemed in compliance.

- During Senator Testin's recent visit to Aspirus Stevens Point, we were able to demonstrate, in real time, to him our pricing estimator tools. We believe tools such as these allow patients to access information that is relevant to them making decisions.

Lori Peck, Vice-President of Revenue Cycle

- With me today is the Aspirus expert over not only our pricing transparency, but also the financial relationship between Aspirus, payors and our patients. Lori Peck is the Aspirus Vice President of Revenue Cycle

Aspirus is Compliant with CMS Regulations, Proposed State Regulations will not Advance Transparency

- Aspirus takes compliance with the CMS hospital price transparency regulations seriously. We have dedicated a tremendous number of resources from many areas of our organization to ensure all seventeen of our hospitals meet the regulations annually.
- Collaboration is needed from many areas within the health system such as patient financial experience, revenue integrity, risk, legal, compliance, managed care contracting, communications, IT, etc. to meet the regulatory requirements.
- We also have a robust governance structure in place that meets to monitor the environment ever since this federal regulation was enacted.
- Despite our best efforts to ensure compliance, in October 2021 Aspirus received a warning letter from CMS where they identified two areas of non-compliance. We worked with CMS to resolve the issues in a satisfactory manner. The areas identified by CMS and our resulting changes were then applied to all our other hospital machine-readable files that were not part of their review.
- The proposed state regulations would create an additional burden and take away from the ability for us to advance and evolve price transparency in compliance with federal price transparency requirements.
- Our experience is that in addition to the machine-readable file and the shopper estimates is that patients want a personalized estimate for the services that they will be receiving and that is where we are investing our resources.

Aspirus Provides Patients Transparency Beyond the Regulation

- Aspirus provides a price estimate tool on our website, as required by the federal regulation, for consumers who may be comparing the cost of services prior to scheduling. In September we had 802 estimates created. As part of the next evolution, Aspirus has been investing our resources in advancing price transparency beyond what CMS requires.
- This month, Aspirus is launching estimates that will be provided to patients who have a scheduled visit. This will be provided prior to the scheduled service through MyAspirus or in the mail. These estimates are for both hospital and clinic services. We identify for the patient the specific bundle of services that will be part of their visit and interface with their insurance to receive real-time information on their health plan benefits.
- It is in the health system's best interest to invest in this space as Aspirus experiences approximately \$25 million dollars annually in medical bad debt. Unfortunately, it is the provider who is often seen as the face of health care collections, even when it is due to inappropriately denied care or poor insurance benefit design. Aspirus believes that the more we can assist

patients with understanding pre-service, the more likely patients make informed choices about their care and not be financially harmed.

Insurance Providers are a Critical Part of Providing an Accurate Price Transparency

- To provide accurate price transparency to patients, we need to know what the patient's insurance plan covers. Continual policy changes to our reimbursement from insurance providers occur, making tracking and understanding extremely difficult and time consuming.
- We have resources dedicated to monitoring the 1,500 plus policy changes that occur annually so that we understand how it impacts our organization and often reduces our payments from the insurer that were not part of the contract nor anticipated.
- Our system also has teams who are solely dedicated to understanding how we can get paid for the medically necessary care that was provided. There are constant changes and red tape that Aspirus needs to navigate to receive appropriate reimbursement. If we receive denials or unexpected non-covered services from insurance, then the estimate provided to the patient pre-service is inaccurate.

In summary, Aspirus believes that this additional governmental burden in Senate Bill 328 does not strengthen or enhance the health of Wisconsinites. There is already federal regulation and federal enforcement on this very topic so the additional burden would misdirect precious Wisconsin health resources on something other than care. We respectfully ask for you to oppose this proposed legislation.



TESTIMONY IN SUPPORT OF SENATE BILL 328

October 4, 2023

Chairwoman Cabral-Guevara, Vice-Chair Testin and members of the committee,

My name is Miranda Spindt and I am a policy Associate at the Wisconsin Institute for Law and Liberty, a law and policy center based in Milwaukee. I am joined by my colleague, Dr. Will Flanders, who is our Director of Research. I want to thank you for allowing us to speak today in support of SB 328.

The burden of rising healthcare costs has been well documented nationwide, and Wisconsin is no exception. A 2020 survey of Wisconsinites found some concerning numbers.ⁱ Almost half of Wisconsinites—47%—have delayed or completely avoided receiving healthcare. A study by Forbesⁱⁱ found that healthcare costs in Wisconsin are nearly \$10,000 per person—\$10,000 *per person*—each year. Four in five Wisconsinites are worried about being able to afford our healthcare costs in the future, and 73% of respondents said healthcare was the most important issue. And they're right to be worried. A recent study by the RAND Corporation indicates that Wisconsin's hospital prices are the 4th highest in the nation. The people of Wisconsin need these rising healthcare costs addressed in a manner that empowers them.

Unfortunately, our healthcare system does not incentivize patients to know how much they will have to pay for their care before they receive it. Prices are mainly determined by secret deals between hospitals, insurance companies and other third parties. In fact, 65% of Wisconsinites surveyed felt that hospitals charge too much and 64% believe insurance charges too much. While the Wisconsin Hospital Association hosts Price Point, this doesn't provide adequate information for consumers to understand their out-of-pocket costs based on their hospital and insurance used.

To address this information mismatch, the Trump Administration implemented federal price transparency rules in 2019 that require hospitals to post the prices of 300 shoppable services in a consumer-friendly format and the standard charges of all items and services in a machine-readable file. The Biden administration continued this rule and strengthened non-compliance penalties in 2022. So, why does Wisconsin need to pass a state law when the federal rule already exists? We must do this because compliance rates are low, and enforcement is lower.

The Center for Medicaid Services released a report that suggests 70% of hospitals nationwide are complying with the federal rules, but this is likely a gross overestimation. CMS surveyed just 600 hospitals out of 6,000 nationwide and did not include all the requirements of the federal regulation in the evaluation criteria, such as compliance for providing discounted cash prices and all rates negotiated by health insurer and plan. A study by Patient Rights Advocate conducted a much more in-depth analysis, surveying 2,000 hospitals and compliance with all regulations. They found that only 24.5% of hospitals nationwide, and 45% in Wisconsin, are complying with the federal rules. These results are in line with two other studies published by the Journal of General Internal Medicine in January 2023 which found national compliance rates of 19%ⁱⁱⁱ and 35.9%^{iv} respectively.

Given the low compliance rates, it is surprising to learn that CMS has penalized only 14 hospitals nationwide for non-compliance.^v Senate Bill 328 allows the state to ensure that Wisconsin residents have ready access to pricing information, rather than waiting for the federal government. Additionally, if the federal government ever decided to lift their rules, price transparency will be protected by our own state

law. It is also important to note that the language in the bill largely mirrors existing federal requirements, so a hospital that follows federal rules will also be following Wisconsin's law.

Now you may be wondering why it is so important to have these rules in place at all, especially when costs are often covered fully or in part by insurance. This is because High Deductible Health Plans have risen in popularity. In 2021, about 55% of employees nationwide enrolled in a health plan had a HDHP. In Wisconsin, that is about 63%, or about 13% higher than the national average.^{vi} Without experiencing a catastrophic health event, it is more likely that patients pay for all their healthcare out-of-pocket without support from insurance. For example, more than 80% of non-chronically ill individuals spend less than the average deductible in any given year for Silver Plan holders on the Health Insurance Marketplace

While the costs for emergency situations are unpredictable, about 80% of healthcare services are considered shoppable. These common procedures can be scheduled ahead of time, giving patients the opportunity to compare prices. In Wisconsin, a blood test for clotting can range from \$17.50 to \$135.47 and a joint replacement (hip or knee) can cost between \$17,513 and \$65,927. If this is not covered by insurance, and the deductible has not been met, patients should be able to know the cash price to make an informed financial decision.

We know that price transparency works. New Hampshire was a pioneer in providing pricing information to consumers, with a website that predates the federal rules and offers estimates on over 120 procedures. A 2019 study^{vii} by the University of Michigan and National Bureau of Economic Research found that patients saved \$7.9 million, and insurers saved \$36 million, in the first year of implementation. A 2019 study by WILL^{viii} compared each state's level of healthcare transparency with measures of healthcare affordability. The study found that greater transparency had a statistically significant effect on lowering healthcare costs. While more work is needed to fully establish a causal relationship on this question, the preponderance of the evidence is supportive of the notion that healthcare markets can work. Today, there are about 33 states that have implemented some kind of price transparency law, many of which were passed by bipartisan coalitions.

A key argument against this bill is that patients will not use the pricing information that is available to them, but the reality is that this information has become available too recently for us to reach those conclusions in many cases. Most consumers are not even aware that price information is available. A Kaiser Family Foundation poll found that only 9% of adults were aware of the federal rules, 70% were unsure if rules were in place, and 22% believed that there were no requirements at all. Pricing information that *is* available, due to the vague requirements of how it should be presented, is hard to find on the websites and very difficult to understand.

We expect that by strengthening price transparency in Wisconsin, third parties in the private sector will fill a gap and present information in a way that is accessible and easy to use for patients. Just like how companies like Expedia or Kayak can compare flight and hotel prices across multiple airlines, we expect and encourage a similar result for healthcare costs where it is possible. Websites beginning to offer this information, such as Laso Health, already exist.

Price transparency is not a silver bullet to fixing our healthcare system. However, it is an important first step towards ensuring that consumers have all the information they need to make informed decisions about their healthcare. Without the introduction of these market forces, prices will continue to rise, and the appetite for a government run system will continue to grow. We should give the free market a try before moving in the opposite direction.

ⁱ [https://www.healthcarevaluehub.org/application/files/6715/8352/0434/Hub-Altarum_Data_Brief_No. 58 - Wisconsin Healthcare Affordability.pdf](https://www.healthcarevaluehub.org/application/files/6715/8352/0434/Hub-Altarum_Data_Brief_No._58_-_Wisconsin_Healthcare_Affordability.pdf)

ⁱⁱ <https://www.wha.org/vv-legislative-11-11-2022/1>

ⁱⁱⁱ Loccoh EC, Khera R, van Meijgaard J, Marsh T, Warrach HJ. Hospital Adherence to the Federal Price Transparency Mandate: Results from a Nationally Representative Sample. *J Gen Intern Med.* 2023 Jan 17. doi: 10.1007/s11606-023-08039-0. Epub ahead of print. PMID: 36650327

^{iv} Henderson, M., Mouslim, M. Assessing Compliance with Hospital Price Transparency over Time. *J GEN INTERN MED* (2023). <https://doi.org/10.1007/s11606-022-08020-3>

^v <https://www.cms.gov/priorities/key-initiatives/hospital-price-transparency/enforcement-actions>

^{vi} <https://www.shadac.org/news/2021National-ESI>

^{vii} http://www-personal.umich.edu/~zachb/zbrown_eqm_effects_price_transparency.pdf

^{viii} https://will-law.org/wp-content/uploads/2021/01/2019-08-09-health_transparency_brief_final-ii.pdf

OCTOBER 2022

WILL
WISCONSIN INSTITUTE
FOR LAW & LIBERTY

BY MIRANDA SPINDT & WILL FLANDERS, PHD

EMPOWERING PATIENTS

How Price Transparency Will
Lower Healthcare Costs



Executive Summary



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The Wisconsin Institute for Law & Liberty ("WILL") exists to advance the public interest in the rule of law, individual liberty, constitutional government, and a robust civil society.

Healthcare costs have skyrocketed around the country in recent years. Wisconsin is no exception to this trend, with recent research finding that the state has the fourth highest hospital costs in the country. Coupled with inflation across the economy at large, many Wisconsin families worry about being able to pay their medical bills. Under the Trump administration, there was an attempt to introduce more market forces to the healthcare industry by requiring that the prices for common procedures be posted publicly, but compliance remains low with this measure.

Healthcare is one of the only sectors of our economy where consumers are expected to purchase a good or service without knowing the ultimate price. Price transparency works under the theory that pricing information is a vital component of the free market. Just as we can compare the costs of gasoline at various stations or cars at various dealerships, consumers ought to be able to compare the cost of common medical procedures at providers in their area. In this report, we explore the possibility of bringing healthcare price transparency to Wisconsin.

Among the key takeaways:

- **Prices on shoppable services vary extensively.** For example, A CT scan ranges from about \$858 to \$2,803 within Wisconsin. This price variation means that better information on prices could lead to

real savings for patients and businesses that provide insurance to employees.

- **28% of workers are on High Deductible Health Plans (HDHP) that incentivize shopping around.** High Deductible Plans, often coupled with Health Savings Accounts, require patients to cover a larger share of the actual cost of their care. This means that consumers have more potential to gain from seeking out lower cost options.
- **Research suggests transparency can work.** Studies of insurance companies and states that have implemented transparency measures have found significant savings for consumers.

Policy makers should consider:

- **Implementing full price transparency.** Require that healthcare providers and insurance companies work together to create a website where consumers can see the "out-the-door" price at every provider in the state for a list of common shoppable procedures under their insurance.
- **Creating incentives for shopping.** Some states have implemented systems that require insurers to share savings with consumers when a lower cost option is chosen. This gives consumers additional incentive to weigh the cost versus quality of every potential provider.

Introduction

With healthcare costs consuming almost 20% of our national GDP,¹ these spiraling costs have become a considerable concern for individuals and families all over the country. One in five American households are in healthcare debt,² and about half of those report that it came from unexpected medical bills.³ A Kaiser Family Foundation poll found that 67% of people worry about unexpected medical bills which is more than the percentage who worry about basic necessities such as rent, food and gas.⁴ Even 25% of Americans have reported delaying treatment for a serious medical condition because of cost.⁵ This is likely even more true in Wisconsin, which recent research has found has the fourth highest hospital prices in the nation.⁶ With the crippling costs of healthcare leading hardworking people into debt or to avoid getting treatment in the first place, it is clear that solutions are desperately needed across the country and in Wisconsin.

Perhaps the most efficient way to address these rising healthcare costs is to introduce free-market mechanisms into the healthcare sector. Competition and consumer choice are the best ways to incentivize high-quality care at lower prices. If consumers are given clear pricing information about their medical goods and services before ever getting treatment, they would be empowered to make better decisions about where they receive their healthcare. When consumers are equipped to respond to healthcare prices, there will be a meaningful effect in reducing the cost of healthcare.

Wisconsin has the 4th highest hospital prices in the nation.

The Problem

When a patient seeks medical treatment, they are often unaware of what their cost of care will be at the end of the day. Hospitals, insurance companies, and other third-party negotiators create deals, mostly in secret, to determine the cost of a service and how much of that cost will be paid for by the consumer. As a result, the same procedure can have vastly different costs from hospital to hospital and even from patient to patient. For example, a CT scan of the head can range in price from about \$858 to \$2,803 in the state of Wisconsin.⁷ This difference in cost might make sense if the treatment were better quality, but there is often no correlation between higher costs and higher quality of care or outcomes.⁸ Instead, what consumers pay is determined by what the insurance company and hospital agreed upon.

Costs can get especially out of control when a patient receives a surprise bill for out-of-network care. While this usually happens in emergency situations, it is possible for shoppable procedures as well when a patient gets care from a facility or provider that does not have an agreement with their insurance company. If the insurance company and the out-of-network hospital or provider cannot reach an agreement on cost, they will pass on the entirety of the bill to the patient. It is important to note that this doesn't just happen when a consumer chooses to go to out-of-network facilities. Instead, sometimes out-of-network services are provided at in-network facilities,⁹ making it nearly impossible for consumers to make decisions about what healthcare provider will result in the lowest cost. About 57% of Americans have received a surprise medical bill, and it is the most common reason for medical debt.¹⁰

A CT scan can range from \$858 to \$2,803 in Wisconsin.



Price Transparency and the Free Market

To address the issue of rising costs and surprise billing, many states across the nation have passed price transparency laws, which make information on pricing more readily available to consumers. This enables the consumer to know what they will pay for their healthcare before they receive it, not after, giving consumers the opportunity to shop for their scheduled treatments and procedures. Not only will this help consumers save money, but hospitals, providers, and insurance companies will be incentivized to compete to provide the best quality care at the lowest price possible. Consistent with the free-market principles we see as being effective in most other areas of the economy, this competition should work to drive down overall healthcare costs.

Typically, healthcare is considered an inelastic good, meaning that a consumer will seek out medical care regardless of the cost. This is in contrast to most other consumer markets where we may decide to buy less or seek alternatives due to price increases. While High Deductible Health Plans (HDHP) have become more common, for many, third-party payers like insurance still cover a large portion of our healthcare costs, meaning there is a reduced incentive to know what we will be paying for services before receiving them. When hospitals and insurance companies are able to keep patients in the dark, incentives change. They can negotiate prices that are higher than the cash price of the service, and the price for the same service can vary widely depending on the hospital, the provider, and the insurance company a patient uses.¹¹

80% of healthcare goods and services are shoppable.

In situations such as sudden illness or accident, a patient will seek out medical care no matter what it costs. Insurance is meant to financially protect us from the cost of this type of catastrophic care. However, about 80% of healthcare goods and services are “shoppable” meaning that the decision of where to get treatment does not have to be made immediately.¹² This includes services such as CT scans, blood tests, and psychotherapy. It is these non-emergency procedures where out-of-pocket price information can be available for the consumer to decide where to be treated for the best price.

As alluded to earlier, changing trends in employer-sponsored health-insurance plans also provide a strong incentive for greater transparency. In an effort to control healthcare costs, many employers have begun transitioning their employees to HDHP paired with a supplemental Health Savings Account (HSA).^{*} Since their inception in 2004, high deductible plans have grown in popularity, covering about 28% of workers in 2021.¹³ A 2020 study¹⁴ found that the average deductible for an individual was now more than \$4,000 and more than \$8,000 for a family. Under these plans, individuals often bear a greater share of health-care costs, and consequently ought to be more incentivized to shop for services.

* For 2022, the IRS defines a high deductible health plan as any plan with a deductible of at least \$1,400 for an individual or \$2,800 for a family. An HDHP's total yearly out-of-pocket expenses (including deductibles, copayments, and coinsurance) can't be more than \$7,050 for an individual or \$14,100 for a family. (This limit doesn't apply to out-of-network services.)
Source: <https://www.healthcare.gov/glossary/high-deductible-health-plan/>

Are Transparency Measures Effective?


While the benefits of price transparency seem clear in free-market theory, it is important to consider whether they work in practice before creating new requirements for the healthcare industry. Of course, it is difficult to know whether measures will be effective before they have been tried. Outside of a few examples that will be noted below, private sector compliance remains low with federal requirements put in place under the Trump administration requiring price transparency.¹⁵ Despite a lack of nationwide implementation, a small body of research has examined more localized efforts at price transparency.

Some research has been conducted by examining price transparency within the private sector. One such study of the employees of a national restaurant chain found that employees who sought pricing information were able to lower their costs by about 1.6%.¹⁶ However, these price-lowering effects were mitigated by insurance. Of course, such tools are only effective to the extent that consumers utilize them. One study of AETNA's private online pricing tool found that only about 3.5% of consumers utilized the tool, but those consumers that did saved more

than 12% on average for the same procedure.¹⁷ The low utilization rate may be due to lack of awareness¹⁸ and difficulty using the available tools,¹⁹ which we believe can be remedied through legislative and market-driven action.

Moving to studies of state-implemented transparency programs, a 2019 policy report from the Wisconsin Institute for Law and Liberty (WILL)²⁰ brought together data on the cost to consumers of healthcare in each state with data on whether the state had a solid price transparency law. The results suggested that having poor transparency laws was correlated with more residents reporting that they went without care in the past year because of the cost. A peer-reviewed study²¹ of New Hampshire's price transparency system reached similar conclusions. Looking at the time frame immediately before and after the creation of a price-transparency website, the author found that transparency led to a significant shift toward lower-cost providers, and a lowering of overall costs for both consumers and insurers. The study estimated that savings were about \$7.9 million for patients and \$36 million for insurers over the time period of study.





Price Transparency Around the Nation

Price transparency rules have been enacted at the federal level, but there has not been significant compliance with the rules to yield desired results. In 2019, President Trump signed an executive order directing his administration to implement price transparency regulations which went into effect on January 1, 2021.²² This specific rule requires hospitals to post list prices and negotiated prices for nearly all goods and services offered. This information must be offered in a machine-readable format and a consumer-friendly display.

There is little guidance on what qualifies as a “consumer friendly” format. As long as it is searchable and on a publicly available website, hospitals have the flexibility to decide what format they use.²³ Unfortunately, this means that understanding how to use the tools available can still be difficult and hard to understand. Some private sector and non-profit organizations have taken on the task of collecting hospital price data and making it more intuitive, in an attempt to overcome these shortcomings. For example, Turquoise Health²⁴ allows consumers to search hospital prices by procedure and zip code, and Sage Transparency²⁵ shows a comparison of hospital prices relative to Medicare costs.

Another issue is that the “list prices” that hospitals post may bear little relationship to the final out-of-pocket cost the consumer pays. To know what a consumer will pay, consumers also need to know how much their insurance company will cover for each service. To help address this side of the transparency equation, a second rule went into effect on July 1, 2022²⁶ to hold most group health plans of issuers of group or individual health insurance to the similar price transparency requirements. In a machine-readable file, they must disclose the rates for

all covered items and services between the plan or issuer and in-network providers. They must also disclose the amounts allowed for, and billed charges from, out-of-network providers. Requirements for an online tool to disclose the prices of 500 items and services will go into effect in 2023, and that will change to include all items and services in 2024.

These are steps in the right direction, but it is difficult for the federal government to police compliance across the nation. For the federal hospital rule, the penalty increased in January of 2022 from \$300 a day to a maximum of \$5,500 a day.²⁷ However, an August 2022 study found that only 16% of sampled hospitals were fully complying with the regulation, including only 21% of Wisconsin hospitals.²⁸ It remains to be seen how insurance company rule compliance will fare. Indeed, the Foundation for Government Accountability recently filed a lawsuit against the Centers for Medicare and Medicaid Services for failing to enforce compliance with the federal rules.²⁹

Additionally, Congress passed the “No Surprises Act” which went into effect on January 1, 2022.³⁰ This law protects patients from surprise billing by requiring insurance companies to cover out-of-network claims the same way they would for in-network claims, and they cannot charge more than in-network claims. It also establishes a dispute resolution plan in the case that provider and insurance company are not able to come to an agreement on their own. This ensures that the best interest of the patient comes first.



What Other States Have Done

FULL PRICE TRANSPARENCY

States with complete price transparency require cost estimates from all providers and insurance carriers in virtually all instances, most closely resembling the federal rules on price transparency. However, how that information is delivered varies from state to state. For example, providers and insurers must provide price information within two business days upon patient request in Massachusetts,³¹ whereas Alaska³² and Minnesota³³ require it within 10 business days. In Texas, they take it a step further than other states by also requiring user-friendly websites and having stronger enforcement mechanisms.³⁴

An example of how a price transparency website could look is included in Figure 1 from New Hampshire. New Hampshire was a pioneer in providing pricing information to consumers, with a website that predates the federal law on the subject. The New Hampshire Department of Insurance runs their state website which uses insurance information to estimate the cost of over

120 procedures. The site allows a consumer to pick between medical or dental care, input their insurance company, and choose a procedure to receive an estimate for the out-of-pocket cost of care.

In Figure 1, we have searched for chiropractic care with Anthem insurance within 20 miles of a ZIP code in Nashua. The website returns the statewide average cost of the procedure, as well as the typical number of visits required for treatment. This is followed by the cost at various providers within the Nashua area. Note that these are cost estimates based on data that has been collected in the state's All Payer Claims Database (APCD). The precision of the estimate is based on the amount of data points they have for that provider. In this case, the estimate is more precise for Dr. Santone than it is for Dr. Neilson. The information they can provide is more personalized than a general estimator tool, but it is not guaranteed that they have all the necessary information to give an accurate out-of-pocket cost to the consumer. In Washington, a similar website was established by the state's Office of Financial Management and offers cost estimates for about 85 procedures based on ZIP code.

Figure 1.
New Hampshire Price Transparency Example



While this may be a more desirable standard for state law, even states with complete price transparency do not necessarily have an easy and accessible way for consumers to receive the price information for the laws to be effective.

PARTIAL PRICE TRANSPARENCY

States with partial price transparency require price transparency for providers, hospitals or insurance, but not all of them. Florida, for example, requires hospitals to give cost estimates within seven days upon request, but not providers or insurance companies.³⁵ On the other hand, Tennessee requires out-of-pocket cost estimates be provided by insurance carriers through a public website,³⁶ and Nebraska requires cost estimates from providers for uninsured and self-pay patients.³⁷

LIMITED PRICE TRANSPARENCY

Limited Price Transparency describes states which have price transparency requirements for either providers or insurers, but only in certain situations. For example, cost estimates in New Jersey are only available if a non-emergency procedure is scheduled in advance or if it is out-of-network, and must be provided before the appointment.³⁸ In Montana, patients are

only entitled to price information within ten days of the request if the treatment is greater than \$500.³⁹ California exclusively requires cost estimates for those who are uninsured, but does not enforce responsiveness.⁴⁰ Additionally, California requires hospitals to post the average charges of the 25 most common inpatient and outpatient procedures to their website, and update it yearly.⁴¹

NO PRICE TRANSPARENCY

Unfortunately, a majority of states still have no price transparency laws on the books. Some of them do have some kind of price transparency tool, however, it is not considered to be helpful enough to help empower the consumer. Wisconsin is among the states that currently do not have laws mandating price transparency, however a pair of private organizations operate voluntary tools. The Wisconsin Hospital Association operates a tool called Price Point,⁴² which gives the median price charged for procedures at individual hospitals, but does not have the information needed to give accurate out-of-pocket estimates. The Wisconsin Health Information Organization operates the state's independent All-Payers Claim Database, which collects claims data from insurers, self-funded employers and the state to cover approximately 75% of Wisconsin's population.* These capabilities could serve as a baseline for an eventual implementation of a universal

transparency measure. There are still about 17 states that do not have any laws or price-transparency tools.

ANOTHER OPTION: LOW-COST-SEEKING INCENTIVES

Some states offer a shared savings program that incentivizes consumers to choose lower-cost healthcare services in non-emergency situations. When a patient chooses lower-cost services, it may result in savings for the insurer or provider, which is then shared with the patient through rewards such as a reduction in copayments, credits toward a deductible, or cash. In Florida, there is a shared savings program that is available to full or part-time state employees on the State Group health plan.⁴³ The program is run by the Department of Management Services, and the benefits are automatic when enrolled in the State Group health plan. Enrollees can use the Healthcare Bluebook⁴⁴ to search for rewardable services or a bundled service from SurgeryPlus.⁴⁵ By doing so, they earn rewards as a credit to a designated spending or savings account offered by the State Group health plan or as a reimbursement for out-of-pocket medical expenses.

In Nebraska, insurance carriers are required to offer a program that gives 50% of the shared cost savings to the enrollee, in cash or credit, when the savings are \$50 or more.⁴⁶ In Tennessee, they also require insurance carriers to offer shared savings incentives through cash, credit towards the enrollees' deductible, or reduction of a premium, copayment, or cost sharing.⁴⁷ This can be used in any state with price transparency laws regardless of how comprehensive they may be. Medicaid also offers a shared savings program which has delivered savings for five years in a row, including \$1.6 billion in 2021, while still providing high-quality care to patients.⁴⁸



* <https://www.hcinovationgroup.com/population-health-management/article/21118480/liberating-data-in-wisconsin-how-the-state-is-evolving-its-allpayer-claims-database>



Policy Proposals

The federal rules under the Trump administration, despite their good intentions, have not been very successful to date because of the minimal punishments and lack of enforcement. However, they do lay a good foundation for the states to implement their own price transparency legislation. By codifying the federal rules, price transparency will be protected in case the federal rules are ever removed. Then states can also adjust the legislation to make sure that it fits the needs of their citizens, have better compliance, and ultimately produce the healthcare savings that price transparency makes room for. These policies are likely to be popular with voters as well, with recent polling showing that 87% of Americans support rules that require hospitals to disclose prices.⁴⁹

Model legislation⁵⁰ has been proposed that can serve other states in implementing transparency. This legislation mandates that each licensed hospital in the state maintain a list that includes payor specific charge information for a list of “shoppable” procedures. If hospitals are determined to be out of compliance with the requirement, the legislation provides for fines from the state. For example, in Colorado they do not allow hospitals to go to collections on unpaid bills if they are not in compliance, and in Texas, top penalties could be \$365,000 a year.⁵¹

The next step would be to address surprise billing. This may include building upon the federal No Surprises Act by codifying and enforcing the requirement for an Advanced Explanation of Benefits (AEOB). When a patient schedules a healthcare service at least ten days in advance, the hospital and insurance company must send them a good faith estimate within three business days of what it will cost them.⁵² It includes information such as the amount the

insurance plan is paying and contracted rates of in-network providers. This proposal would not only make pricing information easier to access for consumers, but also give more details to help customers understand the context around pricing and how they can compare their options. States have codified and enforced the No Surprises Act to varying degrees,⁵³ and ensuring the AEOB could be a great next step. Other suggestions for accessibility include requiring all healthcare facilities, not just hospitals, to disclose prices, have stricter penalties, and give state agencies the necessary tools to enforce compliance.

Finally, states could provide incentives for consumers to use the price transparency tools available to them. As mentioned above, states have done this by using shared savings healthcare programs to reward state employees for choosing lower-priced procedures, and asking individual and small business markets to do the same. These rewards can come in the form of gift cards, lower premiums and deductibles, or adding money to health savings accounts. One way to test this out might be with a pilot program as exemplified by Kentucky and New Hampshire.⁵⁴ Policymakers interested in this means of implementation should look to the example of Florida discussed in the previous section.

Other actions include ending out-of-network discrimination so that patients understand other options, giving smaller companies the ability to see how their health care dollars are spent, and banning anti-competitive contracting provisions.

Conclusion

While some like to use the cost of healthcare as evidence of free-market failure, in reality the healthcare marketplace hasn't been "free" for decades. From the creation of Medicare to the Affordable Care Act to the expansion of Health Maintenance Organizations under President Nixon, the story of American healthcare is one of an inexorable march toward putting barriers between consumers and their care. Price transparency is far from a silver bullet for the rising cost of care, but would represent a meaningful step toward giving power back to consumers when it comes to their healthcare decisions.

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Date: **October 4, 2023**

To: **Senate Committee on Health**

From: **Bellin and Gundersen Health System**

Re: **SB 328, relating to price transparency in hospitals and providing a penalty**

Chair Cabral-Guevara and members of the Senate Committee on Health, thank you for allowing us to testify today and share our concerns regarding Senate Bill 328.

Bellin and Gundersen Health System is an integrated care delivery system providing services to over 600,000 patients throughout 35 counties in Wisconsin, Iowa, Minnesota, and Michigan's UP. Our system provides patients and communities with access to top-tier care at 11 hospitals, 100+ local clinic locations via more than 1,400 providers. As a not-for-profit health system, we champion work in preventive health services, behavioral health, mental well-being support services, and health equity.

Unfortunately, we are not here today to discuss all the things we are doing to support our state's communities. Instead, we are here today to ask for your opposition to Senate Bill 328. We strongly believe it is unnecessary to subject Wisconsin hospitals to new state-level price transparency processes, fines, and penalties when there is already a federal price transparency law in place. Contrary to what some are telling you, the federal regulation is being regularly enforced and updated by the Centers for Medicare and Medicaid Services (CMS). We know this from our own personal experiences and the experiences of many other hospitals and health systems in Wisconsin. Our Gundersen system was one of the healthcare systems who recently received a communication from CMS regarding a review that was done of the machine-readable file published to our website. We took immediate action to address the items they noted and responded with communication to CMS that we took the necessary actions and appreciated their collaboration to ensure the accuracy of our file.

Bellin and Gundersen Health System believes patients should have the tools to understand the potential costs of care and services at our service locations and we already take the necessary steps to ensure this. The homepages of Bellin Health and Gundersen Health System have consumer-friendly, patient estimator tools that summarize potential costs for services. While Bellin Health and Gundersen Health System comply with the federal requirement to post machine-readable files, our patients find price estimator tools provide the information they need to make an educated financial decision about their care. On a monthly basis, our price estimator tools produce an average of 460 estimates for patients shopping for services, while our machine-readable files often barely clock 100 hits per month—sometimes even fewer—and many of which are associated with internal staff who are tasked with ensuring the document is working. In addition to our price estimator tool, we also proactively provide on average over 46,530 estimates to patients prior to their visit to ensure they understand the costs associated with the care before they receive it. Ninety-seven percent of our patients utilize a managed care or insurance products, so these variables are vital to their knowing the true cost of care—much more so than the cash price.

For patients who want even more clarity, we have full time Financial Services staff who can connect over the phone or in person—a service we offered long before the price transparency rule was put into place. In our Gundersen region, Financial Counselors reach out to patients to discuss with patients their upcoming surgery estimate, how we anticipate the patient's insurance applying their benefit, and any

remaining out of pocket expense the patient should expect to see. This team is also able to discuss payment plan options and financial assistance options should the patient voice a concern regarding their ability to pay a balance after insurance is applied. We help patients navigate the cost of care they may need and provide them with the most accurate resources, taking into account all the variables—especially the limitations imposed on them by their insurance. We acknowledge this information can become overwhelming to patients who may not navigate it often, and payors are seldom helpful which is why we take such a proactive approach. Patients who “shop around” without guidance may end up paying more, due to their insurance and the provider they choose may be out of network.

Federal price transparency regulations cannot be viewed as public policy in a vacuum. Hospitals must comply with many other federal laws, including laws that require hospitals to care for patients regardless of their ability to pay and the recently enacted *No Surprises Act*, which requires hospitals to provide estimates to patients when they receive care from an out-of-network provider in an in-network facility.

Again, Bellin and Gundersen Health System remains committed to helping our patients understand the costs associated with their healthcare. Our user-friendly tools can estimate a patient’s out-of-pocket cost for several common procedures, plus imaging and lab. Additionally, our Patient Financial Services Teams work directly with patients to ensure they have the information to better understand the costs associated with their care, taking into consideration all variables—including patients’ insurance coverage—which is often the most important element for over 97% of our patients.

Thank you for your time and consideration of our testimony. We respectfully ask that you oppose Senate Bill 328.

Sincerely,

Michael Finley
Director, Revenue Cycle
Bellin Health

Jen Boigenzahn
Finance Administrator
Gundersen Boscobel Area Hospital and Clinics

Nathan Franklin
Director, External Affairs
Bellin and Gundersen Health System



**THE LEADING VOICE
FOR WISCONSIN SMALL
AND INDEPENDENT BUSINESSES**

October 4, 2023

**TO: Members
Senate Committee on Health**

**FR: Brian Dake
President
Wisconsin Independent Businesses**

RE: 2023 Senate Bill (SB) 328 relating to: price transparency in hospitals and providing a penalty.

Chairwoman Cabral-Guevara and committee members my name is Brian Dake, President of Wisconsin Independent Businesses. Thank you for the opportunity to testify in support of 2023 Senate Bill (SB) 328.

By way of background, Wisconsin Independent Businesses (WIB) was formed in 1977 to provide small, independent business owners with an effective voice in the legislative and regulatory activities of state government. Today, we proudly represent more than 2,000 small business owners throughout Wisconsin. Most of our members (approximately 85%) own and operate businesses which have fewer than 25 employees and/or annual gross revenues of less than \$5 million.

Earlier this year, the Peter G. Peterson Foundation reported nationwide private sector spending on hospital care services has tripled in the past two decades, from \$150 billion to \$449 billion. Closer to home, a 2022 study by the Rand Corporation reported Wisconsin had the fourth highest hospital prices in the nation. These alarming statistics are a call to action for lawmakers to address the skyrocketing costs of medical care provided by hospitals – costs which make healthcare coverage less affordable for small employers and their employees.

WIB...Helping you where you need it.

PO Box 2135 | Madison, Wisconsin 53701 | 800-362-9644 | www.wibiz.org

From our perspective, hospital price transparency is a good starting point for which there is already bipartisan consensus.

Currently, hospitals, insurance companies, and third-party negotiators determine the cost of care and apportion those costs accordingly. In this price-setting arrangement, comparison shopping is limited and there is little incentive for hospitals to offer competitive pricing. As a result, the cost for the same medical procedure can vary from hospital to hospital. For example, a CT scan of the head can range in price from about \$858 to \$2,803 in Wisconsin.

No Wisconsin small business could successfully operate without first advising their customers of what they will have to pay for the goods and services. Moreover, the prices small businesses charge their customers for goods and services must be competitive. Wisconsin hospitals should not be immune from these marketplace forces.

New federal regulations impose price transparency requirements on hospitals. Beginning January 1, 2021, hospital standard charges, including the rates a hospital negotiates with insurance companies and the discounted price a hospital is willing to accept for at least 300 services that patients can plan for in advance (e.g., x-rays, outpatient visits, imaging and laboratory tests, colonoscopies) must be publicly available, free of charge, and presented in a consumer-friendly manner. Hospitals that fail to comply with these requirements are subject to monetary penalties.

Unfortunately, as of January 2023, less than half of Wisconsin hospitals follow these requirements, penalties are rarely enforced, and for compliant hospitals, some provide price estimates, while others publish average or median prices.

SB 328 addresses these deficiencies. This legislation requires Wisconsin hospitals to disclose their standard charges in a similar manner to the existing federal regulations. If the Department of Health Services determines a Wisconsin hospital is not in compliance with these price transparency requirements, the Department must either request a corrective action plan from the hospital or impose a per-day monetary penalty on the hospital.

We respectfully ask for your support of SB 328.

Thank you in advance for your consideration.



Through our exceptional health care services, we reveal the healing presence of God.

Senate Committee on Health

2023 Senate Bill 328

State-level price transparency in hospitals and providing a penalty

October 4th, 2023

Chair Cabral-Guevara and members of the Senate Committee on Health, my name is Kim Blanquart and I serve as one of SSM Health's System Vice Presidents in the Finance Department. I am joined today by Matt Kinsella who is SSM Health's Regional Vice President of Finance and Chief Financial Officer here in Wisconsin.

On behalf of our organization, we would like to thank the committee for the opportunity to testify in opposition to and share concerns we have regarding Senate Bill 328. This proposal would create a new state-level system for reporting patient cost information and services provided by hospitals in the state and it charges the Wisconsin Department of Health Services (DHS) with oversight of this potential requirement and the ability to levy penalties such as fines. We believe implementing a separate structure from the federal government for reporting on price transparency measures is unnecessary and will cause undue complications.

SSM Health is a Catholic, not-for-profit health system serving the comprehensive health needs of communities across the Midwest through a robust and fully integrated health care delivery system. The organization's more than 40,000 employees and physicians, including approximately 14,500 in Wisconsin, are committed to providing exceptional health care services and revealing God's healing presence to everyone they serve. Our footprint in the state includes seven hospitals, ten post-acute care facilities, and more than 85 physician offices and other outpatient care sites. We are headquartered in St. Louis, Missouri and operate in Illinois, Missouri, Oklahoma, as well as in Wisconsin.

As a hospital provider, community partner, and non-profit organization SSM Health is committed to price transparency. And at this very moment our Wisconsin hospitals are in compliance with federal price transparency requirements from the Center for Medicare and Medicaid Services (CMS). It is important to note that the federal rules around price transparency mandate that we provide specific information to CMS and that we maintain certain accessible data on our own website. This is a consistent set of guidelines for every single hospital across our entire system, regardless of which state they are in, and compliance is determined by a sole entity: CMS.

Within our multi-state system, I oversee this function for SSM Health. And I can assure that this is a requirement that our system takes very seriously. I can also tell you that we have invested time, energy, and resources in our reporting platform. We have a detailed process for capturing our standard charges, which includes payer-specific rates, and reporting that out. Additionally, we have built and maintain an easily accessible, user-friendly tool on our website that our patients, potential customers, or others may utilize to look at common services provided at any of our hospitals. It is worth mentioning that having the aforementioned regulatory consistency across all our locations ensures we can report our data and comply with the already complex regulations in an efficient manner.

(OVER)

We also believe that CMS has acted with diligence in determining compliance and communicating any violations and corrective actions. SSM Health can speak from firsthand experience as earlier this year we were notified by CMS that one of our hospitals in Wisconsin – St. Clare’s Baraboo – was not in compliance for two very technical reasons related to the way our data was pulled and an additional step to see our machine readable file. As soon as we received the notice of noncompliance from CMS our internal team started working to address and rectify the situation. While we did not fully agree with their finding and interpretation, we completed the necessary adjustments to our systems, communicated these changes back to CMS well within the required timeframe, and confirmed with the agency that St. Clare Hospital was again compliant with the federal requirements. It is clear to us that their process is working, and CMS is enforcing their regulations, and healthcare systems like ours are taking compliance seriously.

What Senate Bill 328 endeavors to do is set up a separate, and potentially different, state system for reporting standard charges for hospitals. The requirements in SB 328 are an unnecessary addition of regulation onto hospitals. Creating new state-level regulation would further complicate compliance for healthcare systems that operate in Wisconsin, cause a multi-level patchwork of different compliance parameters for systems that may operate in multiple states, such as SSM Health, and require our organizations to commit additional staff time and financial resources when we are already complying with federal price transparency regulations. It would also necessitate additional costs and time with our vendors for a separate system for our seven hospitals in the state.

Based on our own recent interactions with CMS we also believe that having one, singular authority on compliance allows for the most uniform enforcement of price transparency regulations. Hospitals are already heavily regulated by the federal and state governments. We respectfully request that you do not make our regulatory burden even greater by passing Senate Bill 328.

Thank you again for the opportunity to provide comments on Senate Bill 328. We would be happy to take any questions at this time, and if you have any additional follow up after today’s hearing, please feel free to reach out to SSM Health’s Director of Government Affairs, Ben Van Pelt, at benjamin.vanpelt@ssmhealth.com.



TO: Members, Senate Committee on Health

FROM: Rachel Ver Velde, Senior Director of Workforce, Education and Employment Policy

DATE: October 4, 2023

RE: Support for SB 328, Know Your Healthcare Costs Act

Wisconsin Manufacturers & Commerce (WMC) appreciates the opportunity to testify in support of Senate Bill 328. I appreciate Chairwoman Cabral-Guevara holding this hearing and I want to thank Senator Felzkowski for authoring this important piece of legislation. This legislation will be impactful not only for Wisconsin employers, but also for their employees that are struggling with the burdensome cost of healthcare in Wisconsin.

WMC is the largest general business association in Wisconsin, representing approximately 3,800 member companies of all sizes, and from every sector of the economy. Since 1911, our mission has been to make Wisconsin the most competitive state in the nation to do business. According to our most recent *Wisconsin Employer Survey* taken in June of this year, making healthcare more affordable is tied for the top policy action state government can take to help businesses in Wisconsin¹.

The high cost of health care has consistently been a top concern of WMC's membership over the years – and for good reason. Wisconsin's healthcare costs are higher than the national average and a huge driver of those increased costs are higher hospital costs. Wisconsin has the fourth highest hospital prices in the country, paying 307% of what Medicare pays². When you compare that to our surrounding states, most have much lower hospital prices for employer-sponsored plans. Illinois pays 253%, Iowa pays 198% and Michigan pays 193%. Minnesota is closer to Wisconsin, but even they are lower than us at 292% of Medicare. At the individual employer level, almost 4 in 10 employers saw health care costs increase by more than 10% in the last year alone in our June survey.

Wisconsin needs to keep its employer-based health insurance system and promote consumer-driven health care. That is why Senate Bill 328 is so important. Price transparency provides employers and their employees the ability to shop for care, compare prices and make informed healthcare decisions. This legislation will allow employers to be able to continue to provide high quality, affordable healthcare for their employees.

¹ Wisconsin Manufacturers & Commerce, Wisconsin Employer Survey, Summer 2023:
<https://www.wmc.org/wisconsin-employer-survey/>

² RAND Corporation, Prices Paid to Hospitals by Private Health Plans:
https://www.rand.org/pubs/research_reports/RRA1144-1.html

The Know Your Healthcare Costs Act closely mirrors the federal hospital price transparency rules that were enacted in 2021. These rules, promulgated under President Trump and continued under President Biden, require hospitals to provide cost information for certain services to patients and the public.

Senate Bill 328 requires hospitals to make a machine-readable digital file publicly available that contains a list of standard charges for certain items and services provided by the hospital, as well a consumer-friendly list of “standard charges” for certain shoppable services. These “standard charges” must always be available to the public and must be displayed in a prominent location on the home page of the hospital’s website.

A recent review found that only 45% of sampled Wisconsin’s hospitals are fully compliant with the federal rules³. Due to a lack of compliance, several states including Colorado and Texas have taken bipartisan action to codify price transparency requirements into state law. WMC feels strongly that Wisconsin should take similar action. This legislation aligns the transparency requirements with federal regulation but provides accountability for non-compliance. Senate Bill 328 puts in place a process for non-compliant hospitals to go through a corrective action plan to start and then moves on to monetary penalties based on the size of the hospital if the non-compliance continues.

Employers find it unacceptable that healthcare is the only part of our economy where they and their employees don’t know the price of the service before care is provided. This unknown cost contributes to 65% of Americans saying that they are worried about unexpected medical bills⁴. Hospital price transparency is vitally important to employers and consumers alike, giving them the necessary tools to be informed consumers and find the best care at an affordable price. This is especially impactful as more and more employees are covered under high deductible health plans. In Wisconsin, 63% of employees that are enrolled in an employer health plan are in a high deductible health plan⁵. These employees will see particular benefit from increased transparency in pricing and an ability to compare costs before receiving care.

In our June *Wisconsin Employer Survey*, employers said that they overwhelmingly support this legislation. A full 100% of employers support requiring health care providers to provide transparency in their pricing to ensure that consumers can make purchasing decisions based on value. Employers and their employees need to have access to transparent and easily understood medical cost data. Informed health care consumers create a competitive market that will help lower costs for all.

WMC strongly urges members of the Senate Committee on Health to vote in favor of Senate Bill 328. The transparency in this bill will introduce market forces, lower costs and empower employers and consumers to be better informed purchasers of healthcare.

³ Patient Rights Advocate, February 2023 Price Transparency Compliance Report:

<https://static1.squarespace.com/static/60065b8fc8cd610112ab89a7/t/63dfc34f156b45423beb87b7/1675608912170/PatientRightsAdvocate.org+Feb+2023+Price+Transparency+Compliance+Report.pdf>

⁴ Kaiser Family Foundation, Data Note: Public Worries About and Experience With Surprise Medical Bills:

<https://www.kff.org/health-costs/poll-finding/data-note-public-worries-about-and-experience-with-surprise-medical-bills/>

⁵ State Health Access Data Assistance Center, Employer Sponsored Insurance (2019-2021): A national-Level Look at Cost and Coverage Rates: <https://www.shadac.org/news/2021National-ESI>

Wisconsin Economic Priority: LOWER HEALTH CARE COSTS



Wisconsin businesses are looking for lower costs. According to the latest *Wisconsin Employer Survey*, lowering health care costs and reducing the tax burden are essentially tied for the top thing state government should be doing to help the business community. As runaway inflation and spiking health care costs continue to place an undue burden on employers, job creators around Wisconsin are looking to policymakers for pro-growth reforms that will make Wisconsin a more competitive place to do business.

What is the one thing state government could do to help your business?

REDUCE TAXES	28%
MAKE HEALTH CARE MORE AFFORDABLE	27%
REDUCE / REFORM REGULATIONS	23%
REDUCE SPENDING	12%
EDUCATION REFORM	6%
OTHER	3%
TORT / LEGAL REFORM	1%

How much have your company's health care costs increased in the last year?

OVER 10%
39%

It is no surprise that Wisconsin businesses are looking for ways to lower health care costs. The same survey shows that four in 10 employers saw health care costs jump by more than 10 percent in the last year. Nearly 80 percent of those surveyed saw costs go up by six percent or more — making nationwide inflation trends even tougher in Wisconsin.

NO CHANGE	5%	11 TO 20% INCREASE....	30%
1 TO 5% INCREASE	17%	21 TO 30% INCREASE	6%
6 TO 10% INCREASE ...	39%	OVER 30% INCREASE	3%

~ continued on back ~

FOR MORE INFORMATION CONTACT:

Rachel Ver Velde • WMC Senior Director of Workforce, Education & Employment Policy • Phone: 608.258.3400 • Email: rvervelde@wmc.org
501 East Washington Avenue, Madison, WI 53703 | 608.258.3400 | www.wmc.org | f WisconsinMC | WMC501 | @WisconsinMC

Wisconsin Economic Priority: **LOWER HEALTH CARE COSTS**

Do you support or oppose **requiring health care providers to provide transparency in their pricing** so consumers can make **purchasing decisions based on value**?

SUPPORT
100%

OPPOSE
1%

SUPPORT STRONGLY **85%**

SUPPORT SOMEWHAT **15%**

OPPOSE STRONGLY **0%**

OPPOSE SOMEWHAT **1%**

** Totals may not add up to 100% due to rounding.*

FOR MORE INFORMATION CONTACT:

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October 4, 2023

Senate Committee on Health

Mark Gelhaus, Chief Financial Officer, Walker Forge, Inc.

RE: Senate Bill 328, Know Your Healthcare Costs Act

Healthcare costs are the second or third highest expense for businesses, and thus controlling them is critical to success of companies in Wisconsin. The steep rise in healthcare costs jeopardizes the affordability of the employee share of medical plan costs. Higher healthcare costs act as an additional tax to employers and employees.

More and more companies such as Walker Forge are trying to implement consumerism strategies to insert the market into employee choices, to improve quality at better price. The success of these strategies is dependent on the transparency of healthcare costs, and SB 328 would be a great help. Please support SB 328.



MEMO

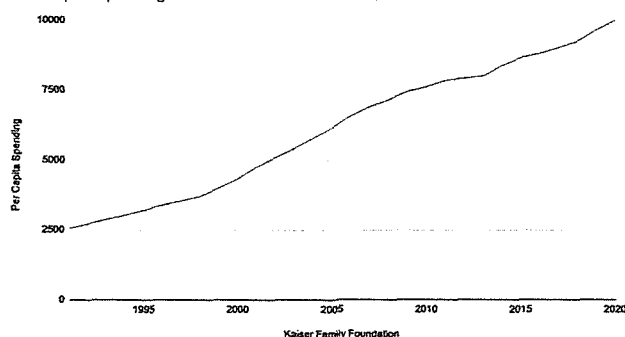
TO: Senate Committee on Health
FROM: Alex Ignatowski, Director of State Budget and Government Reform
DATE: October 4, 2023
RE: Support of Senate Bill 328, Price Transparency in Hospitals

In order to have a functioning free market system, those selling goods and services need to communicate the prices they are charging for those goods and services. At its most basic level, this allows consumers to make educated decisions when they need to make a purchase. Price signals enhance competition - driving down costs and creating efficiencies within the marketplace. The current state of affairs within the healthcare industry have left consumers with very little access to this key information, often without any clue as to the cost of the services until they receive the bill weeks later. Earlier this year, IRG Action Fund along with WILL, AFP, the Cicero Institute, the Badger Institute, and OSP formed a coalition of free market advocates in support of Senate Bill 328.

Rising Costs

The cost of healthcare has become an unshakeable burden for middle-class Wisconsinites. The national average cost of an employer sponsored health plan in the US is \$22,463 annually. In 1999, the average was \$5,791. Factoring in inflation, that is an almost 52% increase since 1999. In Wisconsin, per capita spending has also increased. In 1999, the per capita spend was \$4,001, by 2020 that number had shot up to \$9,982. What's worse, according to the RAND Corporations Hospital Price

Per Capita Spending on Healthcare in Wisconsin, 1991-2020



Transparency Study, Wisconsin has the fourth highest hospital prices in the nation. This rapid increase is unsustainable and policymakers should explore every option available to help lower the cost of healthcare in Wisconsin.

Free Market Principles

Wisconsin's healthcare industry would benefit from the infusion of free market principles. Senate Bill 328 does just that. Strengthening the federal rules already in place, SB 328 would require hospitals to make available the standard charges for certain items and services they provide in a machine readable and consumer-friendly format. These charges need to be listed by payer source or cash discount price. The bill empowers the Department of Health Services to enforce the new rules and the ability to impose monetary penalties for non-compliance. Allowing consumers to understand the actual cost of healthcare prior to the use of a service will drive competition and bring the cost of care down.

Support Senate Bill 328

SB 328 is not the silver bullet that will solve all of the issues facing the healthcare industry. However, this legislation moves the industry in the right direction, restoring this basic free market concept in healthcare. IRG Action Fund, along with the members of the coalition, respectfully urges your support of SB 328.



TO: Senate Committee on Health
Senator Rachael Cabral-Guevara, Chair

FROM: Jeremy Levin, MHA,
Director of Advocacy

DATE: October 4, 2023

RE: OPPOSE Senate Bill 328—Price Transparency in Hospitals

The Rural Wisconsin Health Cooperative (RWHC), owned and operated by forty-four rural community hospitals, thanks you for this opportunity to share our opposition on Senate Bill 328, which seeks to mandate duplicative requirements upon hospitals to provide cost information for certain items and services provided by the hospital. RWHC Member hospitals follow federal price transparency laws and believe that additional state requirements will lead to additional administrative burden and frustration for our rural hospitals and their communities. No Wisconsin hospitals have been cited by CMS for failure to comply with federal price transparency laws.

Rural hospitals and clinics have dedicated staff that assist patients with accessing the care they need and helping decipher related coverage by insurance companies and give good faith estimates on the services needed, as is required by federal law. This includes: assuring their provider is in-network, what prior authorizations are required, calculating deductibles/copays and identifying how ancillary services such as lab, x-ray and rehab therapies are accessed and the associated costs. Given that most rural facilities have more than 20 health plan contracts, this is a complex resource to establish for their patients.

Rural hospitals are connected-in with their communities, not only by the quality healthcare they provide, but as an integral member of the rural community's economy and daily life. Rural hospitals conduct a Community Health Needs Assessment every three years, where their communities are surveyed about the healthcare services that are desired and that community members value most. Many rural companies view their rural hospitals as partners. These employers rely on their local community hospital to be there for their employees. Duplicative burden and punitive penalties only risk fragmenting the rural health care safety net.

Thank you again for this opportunity to express our opposition on Senate Bill 328. We encourage the Committee not to advance the bill and pursue ideas to help maintain local healthcare in rural Wisconsin.



**Testimony in Support of Senate Bill 328, The Know Your Healthcare Costs Act
Cheryl DeMars, President and CEO - The Alliance
Wisconsin Senate Committee on Health
October 4, 2023**

I am Cheryl DeMars, President and CEO of The Alliance. I regret that I am not there to testify in person on an issue that is critical for employers and foundational to free market healthcare, but I hope to talk with you after the hearing to explain why employers strongly support this legislation.

The Alliance was founded 33 years ago by Wisconsin employers as a not-for-profit health care purchasing cooperative with the goal of controlling health care costs while ensuring high quality care for their employees. The Alliance negotiates contracts directly with thousands of doctors and hospitals to support the self-funded health benefits programs of our members owners. Today, there are over 340 employers from across the state of WI, IL and IA, who are owners of The Alliance who provide health benefits to 110,000 employees and their family members.

The employers of The Alliance want their employees and family members to have the information they need to make informed healthcare decisions. We know that prices vary, sometimes seven-fold, for shoppable and arguably commodity-like services (e.g. imaging). But often, this information is hidden from patients and the public.

The federal Hospital Price Transparency rule, which requires hospitals to report actual prices for services rendered, is an important step toward creating the data needed by consumers and employers to make informed decisions. However, compliance with the rule is spotty. And penalties at the federal level are weak. Many hospitals across the country and in Wisconsin are simply ignoring the rule or are putting up poor attempts that neither comply with the letter, much less the spirit, of the rule.

States like Indiana, Arizona, Colorado and Virginia are taking steps to reinforce the federal hospital price transparency rule by implementing stiffer penalties for non-compliance. SB 328, the "Know Your Healthcare Costs" bill, would go a long way toward encouraging compliance with this important rule. And since it simply mirrors the requirements already in place at the federal level, adds no new burden for hospitals.

We urge the Senate Committee on Health to follow these leading states and recommend SB 328 for passage.



Advancing Free Market Healthcare

Advancing Free Market Healthcare is an employer-led coalition advocating for change in Wisconsin's healthcare marketplace. We stand for policies that promote choice, competition, consumerism, accountability, high-value health care delivery and flexibility for employers to pursue the most affordable and quality health care alternatives on behalf of their Wisconsin employees and their families. This is our 2023-24 legislative agenda.

- 1. Advance Transparency and Build Upon It:** We urge the legislature to pass [Senate Bill 328](#) introduced by Senator Felzkowski and others relating to hospital price transparency. While transparency on its own is not a silver bullet that will fix high health care prices, it is a prerequisite to other efforts, including employer efforts, to lower the healthcare cost burden for Wisconsin employees and their families. It is imperative that Wisconsin gives itself enforcement authority to ensure transparency moves forward in a way that is most beneficial to health care consumers who deserve information about prices.
- 2. Invest in the WHIO:** Provide financial resources and require payers to submit data to strengthen the [Wisconsin Health Information Organization](#) as a critical asset to promote transparency and free market healthcare. As Wisconsin's All-Payers Claim Database or APCD, WHIO collects, aggregates and deidentifies raw claims data from various purchasers, providing stakeholders with a resource that is vital to identifying cost and quality variations. This is the fundamental basis upon which free markets exist. Plus, WHIO is the only dataset that enables payers and providers to evaluate resource use by providers and episodes, a factor that is critical to measuring both quality and the total cost of care. Providers can use this data to improve their own care delivery. For more information about APCDs and their potential, visit this [website](#).

Several states such as [Indiana](#), [Georgia](#), [Utah](#) and [Texas](#) are currently investing significant state resources to support and promote APCDs. Wisconsin's APCD is a voluntary model, and thus lacks certain data. The legislature should advance legislation to fix this, and further consider adding paid amounts to WHIO which are currently missing, then utilize the data to support the work of a Health Care Cost Taskforce (see below).

- 3. Establish a Health Care Cost Taskforce to Understand Cost Drivers and Solutions:** The cost of healthcare, which has put many Wisconsin families in medical debt and is a deciding factor in attracting business to Wisconsin, is a critical economic issue that merits honest and evidence-based discussions and policy ideas. To achieve this, we urge the legislature to establish an apolitical task force to objectively evaluate the cost of healthcare in Wisconsin. If the task force determines that Wisconsin has higher costs compared to other states, the task force should work to identify the reasons behind high costs and recommend solutions to bring Wisconsin prices down to the national average. This would benefit consumers and employers paying for health care. Task force members should be limited to lawmakers and/or individuals who can objectively put the interests of consumers first, who are laser focused on lowering costs, and who should consult with nonpolitical health cost experts such as actuaries and economists, and be informed by data (from state agencies, WHIO and other sources). For models, see [Indiana House Bill 1004](#) and [Minnesota SF 2002](#).
- 4. Improve Health System Merger and Antitrust Reviews to Preserve Access and Competition.** Enact comprehensive legislation that will strengthen the authority of the Wisconsin Department of Justice to ensure health care mergers and acquisitions a) are structured in a way that is in the best interests of patients and consumers, b) do not substantially reduce competition or lead to health care provider regional monopolies and c) scrutinize proposed out of state ownership for any teaching hospital or university that has received substantial state funding. At a minimum, require health care mergers to submit a form to the AG's office to notify them of the merger and establish penalties for failure to do so. Fund one position within the AG's office to oversee health mergers and antitrust concerns and require merging entities to fund a pre-merger economic analysis and post-merger price monitoring through the aforementioned Health Care Cost Taskforce. (See the recommendations included in [this report](#), starting on page 28, and MN [HB 402](#)).
- 5. Hold Healthcare Entities Accountable for State Investments.** Several studies show that Wisconsin has some of the highest healthcare prices in the nation, far exceeding the national average. And more often than not, we hear that cost-shifting from public programs is to blame. Yet in the 2023-25 state budget, Wisconsin will invest billions of state and federal dollars to pay health systems and other providers more for Medicaid-related services. We recommend the Health Care Cost Taskforce work to evaluate whether this investment has a relative impact on non-government

prices for healthcare. If it does not, the Health Care Cost Taskforce should consider ways to ensure the future investment of taxpayer dollars results in a positive impact on employees and individuals who are currently paying 3-4 times what Medicaid and Medicare are paying for the same health services, and does not reward systems and providers that continue to charge well above the national average for procedures and services.

6. **Strengthen Independent Primary Care.** Join the state of Indiana in leading efforts to strengthen independent primary care through tax credits, provisional credentialing and addressing non-competes for physicians. ([See Indiana Senate Enrolled Bill 7](#)). Proposed legislation in Wisconsin should also proactively work to foster a healthy competitive environment by 1) Ensuring that physician employment contracts and policies do not restrict competitive health care practices, 2) that hospitals cannot force patients who choose independent primary care physicians to establish patient relationships with “in-system” primary care doctors in order to receive specialist and behavioral health care, and 3) that hospital systems accept referrals, labs and quality imaging from independent doctors.
7. **Ban Anticompetitive Contracting Terms Between Payers and Providers.** Prohibit health care providers and health plans from offering, entering into, or renewing a provider network contract that includes an anti-steering, anti-tiering, gag, or most favored nation clause, without any exceptions ([see Texas HB711](#)).
8. **Promote Transparency in Billing for Hospital vs. Non-Hospital Care.** Require bills for health care services be submitted on individual provider forms with the appropriate providers’ National Provider Identifiers (NPIs). Ensure hospitals and systems are only charging site-specific facility fees for services that are delivered on a hospital campus. Any clinic location that is more than 250 yards from the campus of a hospital should not be associated with facility fees which inflate and hide the true prices for health services for patients. (See [Texas House Bill 1692](#) and [Indiana Senate Bill 6](#))
9. **Ensure Employer Access to Their Own Data:** Many fully-insured smaller employers today (between 50 to 200 employees) are seeing health insurance renewal increases of 30 percent or more. These employers do not meet the definition of small employer in Wisconsin, and thus are not protected by the guaranteed issue provisions of state or federal law. Often, they find themselves with no good options when they receive an unaffordable premium increase, and other insurers decline to bid on their health plan.

Independent consultants and brokers tell us that the situation is made worse by insurers refusing to share data with the employer citing HIPAA concerns. However, we interpret both HIPAA and the Consolidated Appropriations Act include provisions to permit employers to receive comprehensive and detailed data. Data is critical in allowing employers to understand if proposed increases are justified, pursue creative ideas such as carve outs to address their own cost drivers and to potentially negotiate a lower rate or second offer. It is also critical information to have if the employer wishes to explore self-funding, as a refusal to share identifiable data keeps their HIPAA-bound consultants from arranging the stop-loss and reinsurance necessary to limit risk in a self-funded plan.

State legislation should require health insurers and PBMs to provide claims data to employers and their business associates who are bound by HIPAA, including MLR and identifiable data to enable employers to better understand the issues their plan is facing and seek alternative coverage options. ([See Tx 2007 House Bill 2015](#))

10. **Increase Accountability and Transparency around Drug Prices.** Enact comprehensive transparency measures for PBMs and establish as a default that all rebates and concessions received from drug manufacturers be passed to health plans unless the plan knowingly opts-out. Require PBMS to disclose all cost, price, and reimbursement information and all fees, markups, and discounts charged to health plans and pharmacies. (See employer reporting requirements in [federal S. 1339](#)). Require PBMs to act in the best interest of group health plans and their beneficiaries by holding them to a fiduciary standard (see fiduciary language in [21 HI HB 24](#)). Require not-for-profit hospital pharmacies to disclose prescription drug markups to payers (see [Maine SP 562](#)).



State of Wisconsin
Department of Health Services

Tony Evers, Governor
Kirsten L. Johnson, Secretary

TO: Members of the Senate Committee on Health

FROM: HJ Waukau, Legislative Director

DATE: October 4, 2023

RE: SB 328 relating to: price transparency in hospitals and providing a penalty.

The Department of Health Services (DHS) would like to submit written testimony for information only on Senate Bill 328 (SB 328), regarding the creation of several requirements for hospitals to provide cost information for certain items and services provided by the hospital.

Under SB 328, each hospital must make publicly available a digital file in a machine-readable format that contains a list of standard charges for certain items and services provided by the hospital and a consumer-friendly list of standard charges for certain shoppable services. The list of charges must be prominently displayed on the hospital's website, free of charge, not require a login, and be digitally searchable, among other conditions. SB 382 also provides that DHS must monitor each hospital's compliance with the provisions specified under the bill and requires DHS to take specified actions such as providing written notice, requesting a corrective action plan, and imposing a penalty (forfeiture) if a hospital is noncompliant with the terms of SB 328. In the event of a forfeiture a hospital would be able to contest an assessed forfeiture through both administrative and judicial review processes.

DHS would also be required to develop a template for each hospital to use in formatting its list of charges and may model its template on the one developed by the Centers for Medicare and Medicaid Services (CMS), under section 2718(e) of the Public Health Service Act (45 CFR 180). SB 328 also requires DHS to maintain a publicly available list of hospitals that have been found to have violated any of the price transparency requirements specified in the bill.

As mentioned above, DHS would be required to monitor each hospital's compliance with the terms of SB 328 through: complaints, reviewing analyses, auditing hospital websites, and confirming each hospital submits the required lists and information specified under the bill. In the event of a noncomplying hospital DHS would be required to take a series of escalating actions starting with a written notice, proceeding to a corrective action plan if DHS determines a hospital has materially violated the provisions specified in the bill, and imposing a forfeiture; but only if a hospital does not submit or fails to comply with a corrective action plan. Were a forfeiture to be assessed it would be done on a sliding scale depending on the size of the hospital as follows:

- Not less than \$600 each day for a hospital of 30 or fewer beds
- Not less than \$1,200 each day for a hospital with 31-100 beds
- Not less than \$2,500 each day for a hospital with 101-550 beds
- Not less than \$10,000 each day for a hospital with more than 551 beds

DHS anticipates that the provisions of SB 328 would not have an impact on current administrative rules. However, DHS would need to evaluate the need for rulemaking under DHS 124 for forfeiture assessments specific to the requirements stipulated under SB 328. Forfeiture assessments are addressed under DHS 124.08, but that section is limited to violations of requirements under Wis. Stat. § 50.375. Were SB 328 to become law DHS may need to add authority for new forfeiture assessments as specified by SB 328. DHS would also need 1.0 FTE at the "Nurse Consultant 1" level at a cost of \$117,500 GPR annually; and \$200,000 GPR in both one-time and annual costs for IT support to develop web-based solutions to implement SB 328. The ongoing costs for DHS implementation would \$317,500 annually. SB 328 as currently drafted does not provide funding for DHS to implement the provisions of the bill.

DHS would like to thank the Committee for the opportunity to submit written testimony for information only and offers itself as a resource for the Committee.