

WHA: Senate Bill 328 is “Aiming at the Wrong Target”

Legislation does nothing to address “exploding administrative and bureaucratic waste”

In response to ads being run in Wisconsin by the out-of-state group Patient Rights Advocate, WHA released this [memo](#) to state lawmakers on the Senate Health Committee addressing “false and misleading claims about Wisconsin hospitals’ compliance with federal price transparency mandates.”

While proponents of Senate Bill (SB) 328 claim that this legislation is necessary due to lack of federal enforcement and “negligible” fines on hospitals, data from the Centers for Medicare & Medicaid Services (CMS) shows the exact opposite. The Nov. 20 letter from WHA to the Senate Health Committee states that CMS has sent 906 warning letters for noncompliance (there are only 5,400 acute-care hospitals in the entire country). Of those hospitals, 371 required a corrective action plan, 457 addressed and received an investigation closure notice by CMS, and more than 300 required no additional compliance action after a comprehensive compliance review by CMS. As of Nov. 14, 14 hospitals across the country have received fines up to nearly \$1 million—hardly “negligible.”

Ironically, while state legislation is being considered, the federal government has, yet again, moved forward with even more regulations on hospitals that further misalign the requirements that would be created in SB 328 with existing federal rules. “Several individuals testifying on Oct. 4 were unequivocal in their certainty that the hospital-only state mandates in SB 328 are no different than, in fact ‘mirror,’ current federal requirements, the implication being that compliance with SB 328 will be clear and simple. *This is clearly and simply incorrect,*” states the letter.

Chief among these differences is the fining authority provided to the Wisconsin Department of Health Services (DHS) under SB 328. The bill provides unlimited authority for bureaucrats at DHS to “fine whatever amount they choose as long as they are above the minimum fines established in the bill.” As the letter states, “We cannot recall an example of the Legislature handing such unlimited power to a government agency as given to DHS in SB 328.”

Additionally, the letter reminds lawmakers that while enforcement metrics exist for federal price transparency regulations on hospitals, no similar public data exists for insurer, self-funded employer or third-party administrator compliance with their respective federal price transparency regulation. Only two Wisconsin businesses showed up on Oct. 4 to testify in favor of SB 328 (meanwhile a dozen WHA members testified against the bill), and, according to the letter, it became clear their primary grievances with data and health care price transparency should be with their insurance company or third-party administrator. “If SB 328 is intended to address gaps in enforcement of price transparency regulations, it’s aiming at the wrong target,” states the letter.

“Some organizations supporting SB 328 fight very hard to prevent more regulation on their own industries, yet they now want to straddle hospitals with more regulations. They want you to believe that more regulation increases the price of their products but lowers the price of health care, a double standard that just doesn’t add up.”

WHA’s letter discussed the “exploding administrative and bureaucratic waste that is sapping resources from patient care and burning out our health care workforce, despite mounting evidence that complicated payer bureaucracies and care denials are deterring/preventing patients from seeking and receiving care.”

The letter closes with an alternative call to action for lawmakers. “Instead of fighting over a federal law that is already being enforced and complied with in Wisconsin, we encourage our elected officials to shine a light on the ballooning administrative waste that hospitals and patients must increasingly shoulder.”

WHA encourages members to continue contacting lawmakers and asking them to oppose SB 328.

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