



State of North Carolina
Department of Justice

Roy Cooper, Attorney General

April 10, 2013

The Hon. Bob Rucho
North Carolina Senate
300-A Legislative Office Bldg.
300 N. Salisbury Street
Raleigh, N. C. 27603-5925

Re: SB 473 - The Health Care Cost Reduction and Transparency Act

Dear Senator Rucho:

I commend you and Senator Harry Brown for introducing Senate Bill 473, The Health Care Cost Reduction and Transparency Act. Consumers faced with high health care prices need more information about the costs of procedures. They also need additional tools to help them navigate confusing medical bills and collections practices. Your proposed legislation is a positive step toward achieving these goals. Based on what my office has heard from North Carolina consumers and work we have done on this issue, I have additional proposals for you and the Legislature to consider as your bill moves through the process.

First, consumers should have more time to request an itemized bill. Current law allows consumers to obtain an itemized bill from health care facilities, but only if they request it within 30 days after discharge. Often consumers will not see the need for obtaining an itemized bill until well after 30 days, particularly when the amounts their health insurance will pay are not known until well after that time. In some other states, consumers have an indefinite amount of time to request an itemized bill. The time limit for requesting an itemized bill should, at a minimum, be coextensive with the 3-year statute of limitations a health care facility has for filing a collections action against the consumer.

Second, health care facilities should be required to put their bills in plain, easy to understand language. It is not enough for consumers to receive a list of charges; they need to be able to easily understand it. Consumers should not have to wade through incomprehensible medical codes and undefined jargon to make sense of the charges.

Third, health care facilities should be prohibited from billing consumers for amounts that were not covered under insurance if the facility was to blame for failing to submit information to the insurance company on time. Sometimes consumers run into problems when a health care facility fails to submit timely information to their health insurance company and then, as a result, the insurance company fails to provide coverage to the consumer. To add insult to injury, the health care facility will sometimes later attempt to bill the consumer for the full amounts that were not covered by insurance, even though the reason the amounts were not covered was because the facility did not submit information to the insurance company on time. Therefore, facilities should be prohibited from billing and attempting to collect more than the amount the health care facility would have been entitled to bill and collect from the consumer if the facility had timely submitted pertinent information to the insurance company. In other words, the health care facility should not benefit from an administrative failure.

Fourth, the Legislature should provide consumers with a right to receive prompt and automatic refunds when they have overpaid or when a billing error occurs. Sometimes consumers overpay health care facilities or providers because they inadvertently pay the health care facility before the insurance company has covered some of the charges. When this happens, the health care facility should provide the consumers with a refund within 30 days or less. Likewise, when a health care facility commits a billing error (due to, for example, a computer or coding error) that impacts large numbers of consumers, all of the consumers who were overcharged should receive automatic and proactive refunds once the health care facility learns of the billing error. Refunds should not be limited to those consumers who happened to catch the error and raised the issue with the facility.

Fifth, the Legislature should provide consumers with the right to promptly receive an accurate answer from either their insurance company or their provider as to whether the provider is in-network or out-of-network for insurance purposes. The price a consumer ultimately has to pay for health care is greatly influenced by whether the provider they use is in-network or out-of-network for insurance purposes. If a consumer unknowingly uses a provider who is out of network, the cost to the consumer can be significant. Unfortunately, many times it can be difficult for consumers to promptly obtain this information even though both the insurance carrier and the provider should have this information at hand. Sometimes the consumer gets the run around and is told by the insurance carrier that they must contact the provider, and vice versa. Therefore, the Legislature should require both the insurance carrier and the provider to promptly provide this information to the consumer on request.

Sixth, the Legislature should provide consumers with a reasonable amount of time to request that a health care facility provide charity care and assistance pursuant to its charity care policies and obligations. Many health care facilities are non-profits and provide charity care and assistance to patients. However, some patients tell us that they apply for charity care but then are denied, even though they otherwise qualified for it, because the health care facility says that the patient did not submit the request soon enough. For charity care and assistance to be meaningful, consumers should be given a reasonable amount of time to request it. In some states, patients have an indefinite amount of time to apply for charity care and assistance. In other states, they have up to one year to apply.

Seventh, the Legislature should require health care facilities to abide by reasonable collections practices. Sometimes consumers are unexpectedly sent to collections by a health care facility even though they believed an insurance claim was still pending or they otherwise had more time to pay the bill. Other times, consumers are sent to collections while they believed a request for charity care was still pending. Consumers should have the right to receive a notification that their account will be referred to collections at least 30 days prior to referral. Health care facilities should be prohibited from sending a patient to collections if an application for charity care or assistance is pending. Collection entities should inform patients of their right to apply for charity care and financial assistance, and should be required to obtain the written consent of the health care facility before filing a collections lawsuit against a patient. A health care facility should not be able to force the sale of patient's primary residence or foreclose on the primary residence in order to collect on an outstanding bill.

Eighth, the Legislature should require health care facilities to provide notification to the Attorney General's Office and the Federal Trade Commission when they merge with or acquire another health care facility and when they acquire physician practice groups. In recent years, health care facilities have increasingly engaged in mergers and acquisitions. Health care facilities have also increasingly acquired physician practices, with the result that more physicians are working directly for a hospital or other health care facility instead of practicing independently. Both of these developments have the potential to increase costs for consumers under certain circumstances. Recently, my office and the Federal Trade Commission received a victory before the U.S. Supreme Court when the Court ruled that state health care facilities are not immune from the antitrust laws. In order to be able to better exercise this authority, it is important to receive timely notice of important mergers and acquisitions.

Although there are limits on what we can do on the state level regarding the cost of health care, your legislation and these proposals are common sense steps we can take that will provide additional benefits and help to North Carolina consumers. My

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staff and I will be glad to discuss the suggestions I have made above - and specific statutory language - with you in more detail. I look forward to working together with you on this important issue.

With kind regards, I am

Very truly yours,

A handwritten signature in black ink, consisting of a stylized 'R' and 'C' that together form the name 'Roy Cooper'.

Roy Cooper

RAC/sm

cc: The Hon. Harry Brown
The Hon. Thom Tillis
The Hon. Phil Berger
The Hon. Martin Nesbitt
The Hon. Larry Hall