

ONE HUNDRED ONE NORTH CARSON STREET
CARSON CITY, NEVADA 89701
OFFICE: (775) 684-5670
FAX NO.: (775) 684-5683



555 EAST WASHINGTON AVENUE, SUITE 5100
LAS VEGAS, NEVADA 89101
OFFICE: (702) 486-2500
FAX NO.: (702) 486-2505

Office of the Governor

June 8, 2017

The Honorable Barbara Cegavske
Nevada Secretary of State
101 South Carson Street
Carson City, NV 89701

RE: Assembly Bill 382 of the 79th Legislative Session

Dear Secretary of State Cegavske:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill 382 ("AB 382"), which is entitled:

AN ACT relating to health care; requiring certain hospitals, independent centers for emergency medical care and physicians to accept certain rates as payment in full for the provision of emergency services and care to certain patients; providing an exception under certain circumstances; requiring the submission of certain reports relating to policies of health insurance and similar contractual agreements by certain third parties who issue those policies and agreements; requiring certain hospitals and independent centers for emergency medical care to submit reports to the Governor's Consumer Health Advocate concerning patient debt and rate increases; requiring the Advocate to adopt certain regulations; and providing other matters properly relating thereto.

AB 382 attempts to fix a long-standing problem in Nevada, whereby patients receive "surprise" billing for emergency care they received out of their insurance network. There is little doubt that such a problem needs a solution, and AB 382 is not the first attempt at a solution. It is, in many respects, similar to Senate Bill 115 from the 2011 Legislative Session. That bill was vetoed because, among other things, it was "overreaching and interferes with contracting between third party payers, hospitals and health care providers." Because AB 382 suffers from similar and other shortcomings, I cannot support it.

Surprise billing occurs when patients receive emergency treatment from hospitals and physicians that are not covered by the patient's insurance. In the heat of an emergency, the patient has little choice in the treatment, and neither do the hospitals or physicians. The care is

delivered as if the patient were “in network.” The patient’s insurance then refuses to fully pay for the out-of-network treatment, placing the patient and the healthcare provider in a billing dispute.

AB 382 tries to end these disputes by removing the patient from the process. Instead, the patient’s insurance must make a reasonable offer of payment, and if the healthcare provider refuses, the dispute goes to binding mediation. There is no limit—high or low—on the amount in dispute; all disputes are eligible for mediation, and sometimes the costs of mediation will exceed the amount in dispute.

Out-of-network emergency care is common. There can be thousands of such incidents at a given hospital in a given year. Should AB 382 become law, hospitals and physicians, who have already provided services, could be forced to choose between accepting reduced, likely below market payments or mediate thousands of cases a year. Nevada’s healthcare providers testified that they should be spending their precious time helping patients, not mediating disputes.

If hospitals or physicians are forced to accept below-market rates for out-of-network care, there would be no incentive to enter into network contracts, in which healthcare providers and insurance companies negotiate a contract for in-network care. Such contracts provide value. The insurance companies know that their customers will be using healthcare services the companies trust, and the healthcare providers know they will be paid for services rendered.

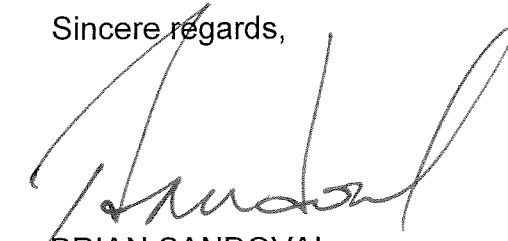
AB 382 would disrupt this balance and the healthcare market, and force hospitals and physicians to accept below market payment for their services. This result will likely lead to doctors leaving Nevada, making the State’s critical doctor shortage even worse. Even some of the legislators who supported AB 382 expressed worries about the unintended consequences of AB 382 and concerns about the legislation being the right solution to the problem. They testified that they needed more time to study the specific proposals in the bill to make sure that they did not create negative consequences.

Additionally, the risks posed to the Nevada healthcare system, hospitals, and physicians are why groups like the Nevada State Medical Association, Sunrise Hospital, North Valley Hospital, the Nevada Rural Hospital Partners, Dignity Health, the Nevada Board of Orthopedists, the Nevada Association of Osteopathic Physicians, the Nevada Medical Group Management Association, Renown Health, the Northern Nevada Emergency Physicians, and the Women’s Health Associates of Southern Nevada opposed the bill. They also joined many individual physicians who raised serious concerns about AB 382.

AB 382 brings into focus a difficult and timely issue that needs clarity, discussion, and maximum input from patients, insurers, and healthcare providers. I am considering issuing an Executive Order that forms a committee of stakeholders to study this issue to bring more informed recommendations to the 2019 Legislative Session and beyond. Moreover, the Legislature recently passed for the first time Assembly Joint Resolution No. 14 to amend the Nevada Constitution to “ensure access to affordable emergency medical care at reasonable rates to all persons in this State.” Given the prospect of a constitutional imperative to fix the problem of surprise billing, this committee of stakeholders will provide invaluable input to the discussion.

For these reasons, I veto Assembly Bill 382 and return it without my signature or approval.

Sincere regards,



BRIAN SANDOVAL
Governor

Enclosure

cc: *The Honorable Mark Hutchison, President of the Senate (without enclosure)*
The Honorable Jason Frierson, Speaker of the Assembly (without enclosure)
The Honorable Aaron Ford, Senate Majority Leader (without enclosure)
Claire J. Clift, Secretary of the Senate (without enclosure)
Susan Furlong, Chief Clerk of the Assembly (without enclosure)
Brenda Erdoes, Esq., Legislative Counsel (without enclosure)