



2021 HB 1247
Senate Human Services Committee
Senator Judy Lee, Chairman
March 30, 2021

Chairman Lee and Members of the Senate Human Services Committee, I am Melissa Hauer, General Counsel, North Dakota Hospital Association. I am here to request an amendment to 2021 House Bill 1247.

The amendment we are requesting deals with air ambulance services. Specifically, we are asking that NDCC sections 23-16-17, 26.1-47-09, and 26.1-47-10 be repealed.

As you might recall, the legislature passed 2017 Senate Bill no. 2231, creating the three sections noted above which imposed certain requirements on health care providers when they arranged for air ambulance services on behalf of a patient. They were designed to protect the patient from surprise bills. For example, before a hospital initiates contact with an air ambulance service provider for air transport of a patient, the hospital has to inform the patient, or the patient's representative, of the air ambulance service provider's health insurance network status. Anticipating that the law was going to be challenged in court, the bill also provided that, if the Insurance Commissioner certified to Legislative Council that the law was declared invalid, additional patient notice requirements would then spring into effect to take the place of the invalid portion.

Shortly after its enactment, the law was challenged in federal court by an air ambulance provider and the 8th Circuit Court of Appeals recently ruled that the law is invalid. We are concerned that, with this determination of invalidity, the springing section will place additional burdens on hospitals. Perhaps more importantly, the requirements of the state law are unnecessary given that Congress recently acted to deal with surprise medical bills.

The No Surprises Act was passed by Congress and signed into law by President Trump on December 27, 2020. Under this new law, consumers will be protected from surprise medical bills when they receive care in both emergency and nonemergency settings. The protections extend to out-of-network air ambulances. As a result, patients will be protected from surprise bills in situations where they have little or no control over who provides their care.

Because the federal No Surprises Act included protection against surprise bills from air ambulance providers, the provisions in our state law are unnecessary and would only add burdens on health care providers. For example, a health care provider would be required to obtain prior authorization from the patient's insurer before arranging for air ambulance services or provide the patient with written notice of the potential range of cost for such services. Obtaining prior authorization from an insurer will be time consuming when every minute can be critical for a patient that needs to be air lifted. And hospitals do not know the potential range of cost for such services across all air ambulance providers and it is unclear where they would get such figures. Hospitals are concerned that, if the springing portion of the state law is allowed to go into effect, the onerous additional requirements may affect patient care with no benefit given that there is now a federal law that protects consumers against surprise air ambulance bills.

For these reasons, we are asking that NDCC sections 23-16-17, 26.1-47-09, and 26.1-47-10 be repealed. We ask that you amend the bill and, as so amended, give the bill a **Do Pass** recommendation.

I would be happy to respond to any questions you may have. Thank you.

Respectfully Submitted,

Melissa Hauer, General Counsel/VP
North Dakota Hospital Association