

RESOLUTION NUMBER: D- 03

REFERRED TO: Reference Committee on Legislative Activities and Public Relations

SUBJECT: Support Protecting Patients in South Carolina from "Surprise Billing"

SUBMITTED BY: Sherry Chen, Sanjana Mandilwar, Brooke Taylor, Rachel Reed, and Erin Walker - University of South Carolina School of Medicine Greenville

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1           **WHEREAS;** a surprise bill is defined as an unexpected bill from a healthcare facility or  
2 from a healthcare provider;<sup>1</sup> and

3           **WHEREAS;** approximately one in five emergency claims and one in six in network  
4 hospitalizations included at least one surprise bill for privately insured patients;<sup>2</sup> and

5           **WHEREAS;** up to two-thirds of Americans have expressed concern regarding the ability  
6 to pay unexpected medical bills and 78% support enactment of legislation against surprise billing;<sup>1</sup>  
7 and

8           **WHEREAS;** ten percent of emergency room visits for privately insured individuals  
9 require an ambulance ride to the hospital with half of privately insured individuals being at risk  
10 for surprise billing;<sup>9</sup> and

11           **WHEREAS;** the No Surprises Act as part of the Consolidated Appropriations Bill of 2021  
12 address includes air ambulance services by including “medical transport by helicopter” and  
13 “medical transport by airplane”, but does not include ground ambulance services;<sup>5,6</sup> and

14           **WHEREAS;** as of 2022, only ten states (CO, DE, FL, IL, ME, MD, NY, OH, VT, WV)  
15 have some level of protection against ground ambulance surprise billing;<sup>7,8</sup> and

16           **WHEREAS;** on December 27, 2020, the No Surprises Act of the Consolidated  
17 Appropriations Act (NSA) was enacted by South Carolina;<sup>3</sup> and

18           **WHEREAS;** the American Hospital Association (AHA) stated that the variable state  
19 implementation of the No Surprises Act process “unfairly favors” payers;<sup>10</sup> and

20           **WHEREAS;** the NSA implements additional requirements concerning cost-sharing rules,  
21 prohibitions on balance billing for select items and services, notice and consent requirements, and  
22 requirements related to disclosures regarding balance billing protections<sup>3</sup>; and

23           **WHEREAS;** H-285.904 states that AMA will advocate any legislation addressing surprise  
24 out of network medical bills use an independent, non-conflicted database of commercial charges;<sup>11</sup>  
25 and

26           **WHEREAS;** Per SC Code of Laws Section 39-5-20 states unfair methods of competition  
27 and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby  
28 declared unlawful;<sup>4</sup> therefore be it,

29           **RESOLVED;** that our SCMA work with appropriate stakeholders to support more robust  
30 reform of surprise billing as it relates to (1) qualifying as an example of deceptive trade practices  
31 (2) ground ambulance services (3) acknowledge the amendment to Title 39 of the S.C Code and  
32 include unfair trade practice pursuant to Section 39-5-20 for a health care insurer or provider to  
33 engage in “surprise billing” as defined in Section 38-71-292.

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References:

1. Sheckter CC, Singh P, Angelos P, Offodile AC 2nd. Surprise Billing in Surgical Care Episodes - Overview, Ethical Concerns, and Policy Solutions in Light of COVID-19. *Ann Surg.* 2020;272(4):e264-e265. doi:10.1097/SLA.0000000000004152
2. Stephenson J. Law Banning Surprise Medical Bills Takes Effect. *JAMA Health Forum.* 2022;3(1):e220019. doi:10.1001/jamahealthforum.2022.0019
3. No surprises act information. No Surprises Act Information | Department of Insurance, SC - Official Website. <https://www.doi.sc.gov/1001/No-Surprises-Act-Information>. Accessed February 20, 2023.
4. Unfair Trade Practices Article1 Section 39-5-20 (2022). <https://www.scstatehouse.gov/code/t39c005.php>
5. Mitchell, August 8, 2022, SM, P.m 4:20. Ambulance rides still aren’t protected from surprise billing — and subscriptions do little to help. *The Intercept.* Accessed August 18, 2022. <https://theintercept.com/2022/08/08/ambulance-ems-subscription-bills/>
6. The No Surprises Act’s Prohibitions on Balancing Billing | CMS. Accessed August 30, 2022. [cms.gov/files/document/a274577-1a-training-1-balancing-billingfinal508.pdf](https://www.cms.gov/files/document/a274577-1a-training-1-balancing-billingfinal508.pdf)
7. Commonwealth Fund. Protecting consumers from surprise ambulance bills. (2021, November 15). Retrieved August 30, 2022, from <https://www.commonwealthfund.org/blog/2021/protecting-consumers-surprise-ambulance-bills>

8. Commonwealth Fund. State Balance-Billing Protections. (2021, February 5). Retrieved August 30, 2022, from <https://www.commonwealthfund.org/publications/maps-and-interactives/2021/feb/state-balance-billing-protections>
9. Amin, K., Pollitz, K., Claxton, G., Rae, M., & Cynthia Cox. (2022, January 5). Ground ambulance rides and potential for surprise billing. Retrieved August 30, 2022, from [https://www.healthsystemtracker.org/brief/ground-ambulance-rides-and-potential-for-surprise-billing/#Among%20privately%20insured%20non-elderly%20people%20with%20an%20emergency%20room%20\(ER\)%20visit,%20the%20sh](https://www.healthsystemtracker.org/brief/ground-ambulance-rides-and-potential-for-surprise-billing/#Among%20privately%20insured%20non-elderly%20people%20with%20an%20emergency%20room%20(ER)%20visit,%20the%20sh) are%20who%20arrived%20to%20the%20ER%20by%20ambulance,%202018
10. Surprise billing: AHA. American Hospital Association. <https://www.aha.org/surprise-billing>. Accessed March 10, 2023.
11. Out-of-Network Care H-285.904. AMA. (n.d.). Retrieved March 10, 2023, from <https://policysearch.ama-assn.org/policyfinder/detail/%20H-285.904?uri=%2FAMADoc%2FHOD.xml-H-285.904.xml>