



Charles N. Kahn III  
President and CEO

July 11, 2019

The Honorable Anna Eshoo, Chairwoman  
Subcommittee on Health  
House Committee on Energy & Commerce  
2125 Rayburn House Office Building  
Washington, DC 20515

The Honorable Michael Burgess, Ranking Member  
Subcommittee on Health  
House Committee on Energy & Commerce  
2322 Rayburn House Office Building  
Washington, DC 20515

Dear Chairwoman Eshoo and Ranking Member Burgess:

On behalf of the Federation of American Hospitals (FAH), I write to provide our views on a number of the legislative proposals being considered by the Subcommittee as part of its July 11, 2019 mark-up.

The FAH is the national representative of more than 1,000 investor-owned or managed community hospitals and health systems throughout the United States. Our members include hospitals in urban and rural America, as well as inpatient rehabilitation, psychiatric, long-term acute care, and cancer hospitals.

*H.R. 728; Title VIII Nursing Workforce Reauthorization Act of 2019*

I am pleased to offer our strong support for *H.R. 728, Title VIII Nursing Workforce Reauthorization Act of 2019* and for the amendment being offered by Representative Matsui which makes important modifications to the underlying legislation, including ensuring that all nurses practicing in critical shortage facilities have the opportunity to benefit from the loan repayment programs authorized in the legislation.

*Title VIII Nursing Workforce Reauthorization Act of 2019* will extend critical nursing workforce development programs that invest in the education and training of our nation's nurses. This legislation will play a vital role in ensuring that nurses continue to provide high-quality care to patients across the nation, including in rural and underserved communities, by supporting nursing education, practice, recruitment, and retention.

We further offer our support for the inclusion of the Matsui amendment into the underlying legislation. The Matsui amendment is critical to ensuring that all nurses in critical shortage facilities are eligible for the loan repayment program.

We thank you for your leadership in advancing this legislation and urge support for the amendment offered by Representative Matsui. We look forward to working with you to secure the amended legislation's passage through the full Committee and House of Representatives.

*H.R. 2328; Amendment in the Nature of a Substitute; REACH Act*

We applaud the Committee's inclusion of language to reauthorize the National Quality Forum (NQF) through fiscal year 2022. The NQF has been critical to ensuring the reliability and effectiveness of quality measures, and we are pleased to see continued investment in their important work. The FAH also supports the Committee's expansion of the NQF's scope, providing long needed authority to recommend the removal of measures to ensure they continue to drive measurable improvements in quality for Medicare beneficiaries.

*H.R. 3630, No Surprises Act*

On behalf of our member hospitals and health systems, we appreciate the urgent need to protect patients from "surprise bills" and are committed to working with you to find a federal legislative solution. Regretfully, in its current form, we must oppose the legislation.

A federal solution should protect the patient financially, ensure patient access to emergency care, remove the patient from health plan/provider payment negotiations, preserve the role of private negotiation, ensure access to comprehensive provider networks, and support state laws that work.

To that end, policy solutions must have patients at their center, and we support the legislation's intent to prohibit balance billing and hold the patient to in-network cost-sharing in circumstances where the patient has no reasonable control over the network status of the providers administering care.

However, we have serious concerns about the legislation's provision that sets a benchmark rate in statute for the out-of-network payments. We oppose the setting of a payment rate in statute. Notwithstanding our concerns about the appropriateness of the Federal government establishing payment rates that govern private markets, a default rate will become the payment ceiling and remove incentives for insurers to develop comprehensive networks, as there are already increasing numbers of narrow network products offered that exclude certain types of providers, which could limit patient access to care. Moreover, setting a payment rate is difficult to do properly in statute, given the many factors that are currently used to determine payment.

While we believe preserving provider/plan negotiation is the most appropriate process for solving payment disputes, we do believe there are other market-based solutions available to help determine provider/health plan payment in these instances. A number of states have implemented

the use of mediation and/or arbitration to settle these payment disputes with great success. We believe that such a dispute resolution process that allows a neutral third party to mediate or determine fair payment is far superior to setting a statutory payment rate and will avoid the negative consequences for patients that setting a rate will likely incur.

We hope to continue to work with the Committee to develop a policy that protects patients while preserving the role of private negotiation in these matters.

Thank you for your work on these important issues and we look forward to working with you to advance these policies through the legislative process.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew M. Rosen". The signature is fluid and cursive, with a large initial "A" and "M".

cc: The Honorable Frank Pallone, Chairman, House Energy & Commerce Committee  
The Honorable Greg Walden, Ranking Member, House Energy & Commerce Committee