



TO: House Committee on Insurance

FROM: Shannan Flach, Vice President Health Care Finance and Reimbursement

DATE: February 10, 2025

RE: House Bill 2246 Enacting the Consumer Protection Related to Hospital Price Transparency Act

The Kansas Hospital Association appreciates the opportunity to provide comments in opposition to House Bill 2246. Today, we appear before you on behalf of our 121 community hospitals throughout the state. These are the hospitals on the front lines serving your constituents through some very challenging times, including complying with the growing number of government and payer data and information demands that range from those ever-changing metrics focusing on cost as well as quality.

We appreciate the opportunity to discuss HB 2246 and help inform how hospitals have already been leaders in the area of transparency for many years. Kansas hospitals are committed to empowering patients with access to accurate and timely pricing information so they can make informed decisions when seeking care. We want to make it very clear that KHA's opposition to House Bill 2246 should not be misconstrued or misrepresented as opposition to price transparency. Hospitals are striving to deliver as much information upfront to the patient and continue to improve upon the availability and the accuracy of the data.

Kansas hospitals are proud to serve our communities and patients 24 hours a day, each and every day, regardless of payment. Many times, the hospitals serve as de facto healthcare anchors as well as housing and food resources in communities across our state. These hospitals provide services and deliver care in communities across Kansas that would likely be unavailable if the hospital wasn't there. Hospitals do all of this in an environment of stagnant reimbursement, increasing labor, drug, and supply costs, and growing amounts of federal, state, and payer bureaucracy, including never-ending and changing requirements for data and information requirements.

Over the past several years, the Centers for Medicare and Medicaid Services has implemented pricing transparency requirements. In 2022, the federal government increased the penalties associated with non-compliance with the federal transparency law. To date, Kansas hospitals that have received CMS corrective action letters for price transparency non-compliance, have worked to come into compliance. We are happy to highlight that 100% of those hospitals met requirements after working closely with CMS to correct the action within the 90-day timeframe. This shows that CMS is auditing and ensuring that federal price transparency regulations are being followed. To note, no corrective action letters indicated that hospitals were out of compliance with the 300 shoppable services estimates. Hospitals that received correction action letters were out of compliance with the formatting of the data, not the availability of the information.

In the past year, our hospitals across the country experienced a severe catastrophic consequence due to a cyber-attack that occurred to a healthcare vendor owned by an insurance payer. This cyber-attack disrupted some hospital websites including the price transparency estimator tools that were connected. This bill would potentially cause our hospitals to have to refund insurance payers due to compliance issues that were of no fault to the hospital. Since CMS is already overseeing hospital pricing and enforcement for Kansas hospitals, we believe the appropriate arbitrator of compliance should be CMS, and we see no reason for Kansas to duplicate these requirements.

We do believe that the new cause of action created by this legislation could also lead to a lot of extra litigation for our hospitals, increasing the burdens to the hospitals and the judicial system for a program that is already enforced by the federal government.

This proposal would be most problematic for our small, rural hospitals that continue to struggle financially. According to a Becker article, Kansas ranks first in the nation for the number of hospitals at financial risk. At KHA, our studies show that while hospitals nationally, on average, keep 218 days of cash on hand, in Kansas, our hospitals average only 62 days of cash on hand. Those hospitals possibly couldn't sustain additional civil penalties associated with more uncompensated care related to this duplicative oversight.

Kansas hospitals recognize the importance of pricing transparency and have prioritized ensuring that patients have access and ability to get price estimates in a timely manner. Based on internal surveys, Critical Access Hospitals in Kansas provide, on average, five good faith estimates for patients per week. Larger hospitals can average more than one hundred per day. We are proud that access to estimated costs is available and being utilized.

We also recognize that we are only one piece of the equation and other stakeholders, including insurance carriers and pharmaceutical companies, have a responsibility in the overall pricing transparency. We would be receptive to a focus group that includes other healthcare providers, insurance carriers, pharmaceutical companies, and employer groups to explore in new ideas and suggestions to make healthcare costs more transparent.

Kansas hospitals are meeting the federal transparency requirements and are going above and beyond to ensure access to reliable, accurate estimates. We respectfully request that the Kansas legislature not duplicate the transparency requirements already enforced on the federal level.

Thank you for your consideration of our comments. We urge this committee to reject House Bill 2246.