



# MASSACHUSETTS MEDICAL SOCIETY

*Every physician matters, each patient counts.*

January 28, 2022

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The Honorable Ron Mariano  
Speaker, Massachusetts House of Representatives  
State House, Room 356  
Boston, MA 02133

Dear Mr. Speaker:

The Massachusetts Medical Society (MMS) is grateful for your leadership in the continued effort to address the many crises brought on by the COVID-19 pandemic. We strongly support, and thank you for including, many of the important measures in H.4345, such as additional, targeted funding to increase vaccination rates among young children, resources to provide high quality masks to school-aged children, funding to improve the availability and accessibility of testing across the state, and support for the COVID-19 Vaccine Equity Initiative to raise rates of vaccination and booster shots in communities disproportionately impacted by COVID. We appreciate the legislature's focus on centering equity throughout the policies contained in this bill.

The Medical Society urges you to support key issues focused on our health care workforce that will better equip and prepare health care professionals to deliver optimal care to our patients. We additionally urge your support for provisions that will bolster our public health response to the ongoing pandemic and its many associated challenges. **As detailed below, MMS urges retention of the House language ensuring robust, critically necessary retroactive liability protections, and also supports inclusion of a provision to delay new unnecessary, burdensome disclosure requirements for physicians, hospitals, and other health care providers.**

## **Delayed Implementation of Surprise Billing Penalties**

While the MMS has long-supported protecting patients from "surprise" out-of-network bills, we strongly urge delaying the implementation of related notice and price transparency disclosure requirements (section 25 of c.260 of the Acts of 2020), which we believe is in the best interest of patients, physicians, and the health care system. The aims of this state law—to empower patients with timely notice and cost disclosures—are largely achieved through the federal No Surprises Act (NSA), which took effect on January 1, 2022. The overlapping state and federal laws have created significant challenges and unnecessary administrative burden for physicians seeking in good faith to comply with both laws concurrently. The lack of clarity on the interplay of both laws muddies provider responsibilities and makes it difficult to know how to convey required information in a manner that is readily understandable and not overly confusing for patients.

During this incredibly challenging time punctuated by unprecedented workforce challenges and physician burnout, the last concern for health care providers should be how to comply with two separate laws that effectively provide patients with the same information, only through different means. Ultimately, while we support the Senate's inclusion of a delay of penalties through July 31, 2022, we believe a wholesale one-year delay in implementation of the state requirements is the best path forward, as we anticipate additional federal rulemaking in the coming months that will be critical to understanding how to reconcile

the state and federal laws. This information will be important to have while we work together with the legislature and the DPH to figure out how best to implement the state law in a way that prioritizes patients and minimizes unnecessary administrative burden on providers. While that work is underway, the NSA will protect patients from surprise medical bills and offer significant patient protections consistent with the aims of analogous provisions contained in Chapter 260 of the Acts of 2020.

### **Liability protections for health care workers and facilities**

The MMS is incredibly grateful to the House for the inclusion of provisions in H.4345 that reinstate liability protections for health care providers. We urge you to retain these important protections during reconciliation with the Senate. As the conference committee members discuss how to structure these liability protections, we further urge you to retain the House's proposed retroactive application to November 22, 2021. Given that the challenging treatment conditions and strain on health care system capacity date back to the fall, as evidenced by the DPH order limiting non-essential, non-urgent procedures on November 23<sup>rd</sup>, retroactive application that tailors these liability protections most appropriately to the time in which they were necessitated is paramount. The provisions protect physicians against unreasonable liability while still reserving patients' legal protections against grossly substandard care and other unacceptable conduct, including discrimination.

Thank you for your commendable efforts to address the mounting struggles and inequities caused by the COVID-19 pandemic. We appreciate your consideration and respectfully urge your support for these critical provisions, which will help alleviate many of the challenges in our health care system and allow the health care workforce to focus its attention on our most fundamental concern—patients.

Sincerely,

Carole E. Allen, MD, MBA, FAAP