TESTIMONY IN SUPPORT OF SENATE BILL 328

October 4, 2023

Chairwoman Cabral-Guevara, Vice-Chair Testin and members of the committee,

My name is Miranda Spindt and I am a policy Associate at the Wisconsin Institute for Law and Liberty, a law and policy center based in Milwaukee. I am joined by my colleague, Dr. Will Flanders, who is our Director of Research. I want to thank you for allowing us to speak today in support of SB 328.

The burden of rising healthcare costs has been well documented nationwide, and Wisconsin is no exception. A 2020 survey of Wisconsinites found some concerning numbers.[i] Almost half of Wisconsinites—47%— have delayed or completely avoided receiving healthcare. A study by Forbes[ii] found that healthcare costs in Wisconsin are nearly $10,000 per person—$10,000 *per person*—each year. Four in five Wisconsinites are worried about being able to afford our healthcare costs in the future, and 73% of respondents said healthcare was the most important issue. And they're right to be worried. A recent study by the RAND Corporation indicates that Wisconsin's hospital prices are the 4th highest in the nation. The people of Wisconsin need these rising healthcare costs addressed in a manner that empowers them.

Unfortunately, our healthcare system does not incentivize patients to know how much they will have to pay for their care before they receive it. Prices are mainly determined by secret deals between hospitals, insurance companies and other third parties. In fact, 65% of Wisconsinites surveyed felt that hospitals charge too much and 64% believe insurance charges too much. While the Wisconsin Hospital Association hosts Price Point, this doesn't provide adequate information for consumers to understand their out-of-pocket costs based on their hospital and insurance used.

To address this information mismatch, the Trump Administration implemented federal price transparency rules in 2019 that require hospitals to post the prices of 300 shoppable services in a consumer-friendly format and the standard charges of all items and services in a machine-readable file. The Biden administration continued this rule and strengthened non-compliance penalties in 2022. So, why does Wisconsin need to pass a state law when the federal rule already exists? We must do this because compliance rates are low, and enforcement is lower.

The Center for Medicaid Services released a report that suggests 70% of hospitals nationwide are complying with the federal rules, but this is likely a gross overestimation. CMS surveyed just 600 hospitals out of 6,000 nationwide and did not include all the requirements of the federal regulation in the evaluation criteria, such as compliance for providing discounted cash prices and all rates negotiated by health insurer and plan. A study by Patient Rights Advocate conducted a much more in-depth analysis, surveying 2,000 hospitals and compliance with all regulations. They found that only 24.5% of hospitals nationwide, and 45% in Wisconsin, are complying with the federal rules. These results are in line with two other studies published by the Journal of General Internal Medicine in January 2023 which found national compliance rates of 19%[iii] and 35.9%[iv] respectively.

Given the low compliance rates, it is surprising to learn that CMS has penalized only 14 hospitals nationwide for non-compliance.[v] Senate Bill 328 allows the state to ensure that Wisconsin residents have ready access to pricing information, rather than waiting for the federal government. Additionally, if the

federal government ever decided to lift their rules, price transparency will be protected by our own state law. It is also important to note that the language in the bill largely mirrors existing federal requirements, so a hospital that follows federal rules will also be following Wisconsin's law.

Now you may be wondering why it is so important to have these rules in place at all, especially when costs are often covered fully or in part by insurance. This is because High Deductible Health Plans have risen in popularity. In 2021, about 55% of employees nationwide enrolled in a health plan had a HDHP. In Wisconsin, that is about 63%, or about 13% higher than the national average.[vi] Without experiencing a catastrophic health event, it is more likely that patients pay for all their healthcare out-of-pocket without support from insurance. For example, more than 80%of non-chronically ill individuals spend less than the average deductible in any given year for Silver Plan holders on the Health Insurance Marketplace

While the costs for emergency situations are unpredictable, about 80% of healthcare services are considered shoppable. These common procedures can be scheduled ahead of time, giving patients the opportunity to compare prices. In Wisconsin, a blood test for clotting can range from $17.50 to $135.47 and a joint replacement (hip or knee) can cost between $17,513 and $65,927. If this is not covered by insurance, and the deductible has not been met, patients should be able to know the cash price to make an informed financial decision.

We know that price transparency works. New Hampshire was a pioneer in providing pricing information to consumers, with a website that predates the federal rules and offers estimates on over 120 procedures. A 2019 study[vii] by the University of Michigan and National Bureau of Economic Research found that patients saved $7.9 million, and insurers saved $36 million, in the first year of implementation. A 2019 study by WILL[viii] compared each state's level of healthcare transparency with measures of healthcare affordability. The study found that greater transparency had a statistically significant effect on lowering healthcare costs. While more work is needed to fully establish a causal relationship on this question, the preponderance of the evidence is supportive of the notion that healthcare markets can work. Today, there are about 33 states that have implemented some kind of price transparency law, many of which were passed by bipartisan coalitions.

A key argument against this bill is that patients will not use the pricing information that is available to them, but the reality is that this information has become available too recently for us to reach those conclusions in many cases. Most consumers are not even aware that price information is available. A Kaiser Family Foundation poll found that only 9% of adults were aware of the federal rules, 70% were unsure if rules were in place, and 22% believed that there were no requirements at all. Pricing information that *is* available, due to the vague requirements of how it should be presented, is hard to find on the websites and very difficult to understand.

We expect that by strengthening price transparency in Wisconsin, third parties in the private sector will fill a gap and present information in a way that is accessible and easy to use for patients. Just like how companies like Expedia or Kayak can compare flight and hotel prices across multiple airlines, we expect and encourage a similar result for healthcare costs where it is possible. Websites beginning to offer this information, such as Laso Health, already exist.

Price transparency is not a silver bullet to fixing our healthcare system. However, it is an important first step towards ensuring that consumers have all the information they need to make informed decisions about their healthcare. Without the introduction of these market forces, prices will continue to rise, and

the appetite for a government run system will continue to grow. We should give the free market a try before moving in the opposite direction.

[i] https://www.healthcarevaluehub.org/application/files/6715/8352/0434/Hub-Altarum_Data_Brief_No._58_-_Wisconsin_Healthcare_Affordability.pdf

[ii] https://www.wha.org/vv-legislative-11-11-2022/1

[iii] Loccoh EC, Khera R, van Meijgaard J, Marsh T, Warraich HJ. Hospital Adherence to the Federal Price Transparency Mandate: Results from a Nationally Representative Sample. J Gen Intern Med. 2023 Jan 17. doi: 10.1007/s11606-023-08039-0. Epub ahead of print. PMID: 36650327

[iv] Henderson, M., Mouslim, M. Assessing Compliance with Hospital Price Transparency over Time. *J GEN INTERN MED* (2023). https://doi.org/10.1007/s11606-022-08020-3

[v] https://www.cms.gov/priorities/key-initiatives/hospital-price-transparency/enforcement-actions

[vi] https://www.shadac.org/news/2021National-ESI

[vii] http://www-personal.umich.edu/~zachb/zbrown_eqm_effects_price_transparency.pdf

[viii] https://will-law.org/wp-content/uploads/2021/01/2019-08-09-health_transparency_brief_final-ii.pdf