



**Opening Statement of Rep. Virginia Foxx (R-NC), Chairwoman
Committee on Education and the Workforce**

**Markup of H.R. 4509, the *Transparency in Billing Act*; H.R. 4508, the *Hidden Fee Disclosure Act*; H.R. 4507, the *Transparency in Coverage Act*; and H.R. 4527, the *Health DATA Act*
July 12, 2023**

(As prepared for delivery)

Today's markup builds upon the Committee's longstanding work to improve transparency and competition in the U.S. health care system so workers and their families have more options at lower prices.

This markup is the Committee's culmination of a process beginning at the onset of the 116th Congress, as members on both sides of the aisle came together to forge a solution to the growing problem of unexpected bills from out-of-network providers, known as "surprise" medical bills.

After two years of Committee deliberation, the *No Surprises Act* was born. It was enacted as part of the *Consolidated Appropriations Act of 2021*, but the path to implementation has yet to be paved. The Trump and then subsequent Biden administrations assumed the task of ensuring guidance surrounding the *No Surprises Act* matched the letter of the law and congressional intent.

Now after over two years of congressional oversight of the law's implementation, we have a good idea where we can offer help. Today's markup isn't taking a chisel to the law; it's using a fine brush to remove the excess dust and reveal the work underneath.

The four bills before us today, the *Transparency in Billing Act*, H.R. 4509; *Hidden Fee Disclosure Act*, H.R. 4508; *Transparency in Coverage Act*, H.R. 4507; and *Health DATA Act*, H.R. 4527, all better equip the administration to carry out the intention of the *No Surprises Act*.

The first bill before us today, the *Transparency in Billing Act*, ensures hospitals account for their charges correctly and prevents them from tacking on hidden facilities fees and upcharges. It forces them to have in place policies and procedures to ensure accurate billing practices.

In what other business can a company legally charge you for a fee going to a facility you never visited? This is like a rental car company charging an airport fee when you pick up the car 30 miles away from the airport in your local neighborhood.

This Committee has a duty to ensure that hospitals are holding up their end of the bargain when working with commercial plans, accurately charging, and not price gouging workers. The *Transparency in Billing Act* does just that. Therefore, I support passage of H.R. 4509.

Next is the *Hidden Fee Disclosure Act*. Enacting the *No Surprises Act* in 2020 did more than address surprise billing practices; it ensured patients had access to transparent cost data before undergoing medical treatment, so they can then shop around and choose the best option.

The *Hidden Fee Disclosure Act* clarifies the law's requirement that "consultants" disclose compensation received for their services to group health plans. Though plainly written to encompass Pharmacy Benefit Managers (PBMs) under the "consultant" umbrella, the law has failed to guarantee compliance from PBMs.

PBM compensation is a blind spot for the American public. We know they leverage their market power to extract rebates from drug makers. We know they leverage their relationships with health insurers to decide which drugs should be covered.

So, we have a right to know if they do so in an unfair way to the consumer. H.R. 4508 ensures PBMs are not above the law, and I urge its passage.

The third bill before us today is the *Health DATA Act*. This bill should be the final answer to a problem we attempted to solve with the *No Surprises Act*.

The *No Surprises Act* amended Section 724 of the underlying law in an attempt to ensure that health plan issuers and service providers were not contractually prevented by gag clauses from accessing payment and quality information about their own health plans.

It did not achieve the intended goal though, as service providers continue to block health plans from accessing cost data that will all them to ensure that employers are meeting their fiduciary duty to provide the best health coverage at the lowest cost. These barriers will continue to exist if Congress does not rectify Section 724's legal loopholes; therefore I urge passage of the *Health DATA Act*.

The last bill on the agenda today is the *Transparency in Coverage Act*. This bill would codify the Trump era "Transparency in Coverage" rule which has largely been upheld under the Biden administration.

While this bill does not directly address a hole Congress has discovered following the *No Surprises Act's* passage, it does build on the general principles of transparency and accountability enshrined by the law.

It requires health care plans to release negotiated rates and cost-sharing estimates publicly. With these tools made widely available, Americans will save millions on health care. And they already have. The bipartisan-supported "Transparency in Coverage" rule is a resounding success, which is all the more reason to codify it into law.

The final portion of the *Transparency in Coverage Act* asks from PBMs what it asks of health plans: transparency. It would give Americans a peek behind the curtain into the true cost of prescription drugs and the insider dealmaking between drug makers and PBMs.

H.R. 4507 will empower patients with transparent information they need and I urge its passage.