



August 13, 2024

The Honorable Xavier Becerra
Secretary
U.S. Department of Health & Human
Services
Hubert H. Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

The Honorable Julie Su
Acting Secretary
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

The Honorable Janet Yellen
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Secretaries Becerra, Su, and Yellen,

On behalf of the undersigned organizations representing the Patient Access to Responsible Care Alliance (PARCA), we are writing today to again urge your agencies to promulgate rulemaking on section 2706(a) of the Public Health Service Act no later than the Administration's August 2024 deadline that was published in the 2024 Unified Agenda of Regulatory and Deregulatory Actions. As you know, this rulemaking is two and a half years passed the statutory deadline provided in the *No Surprises Act* as part of the *Consolidated Appropriations Act of 2021*. The failure of the Administration to promulgate rulemaking continues to empower insurers to put profits ahead of patients and exacerbate financial problems for providers. In addition to missing the statutory deadline, the agencies have also missed multiple self-imposed deadlines for this rulemaking, allowing this critical rulemaking to linger as patients and providers pay the price.

As member organizations of PARCA, we represent non-MD/DO Medicare recognized health and mental health care providers who provide high-quality, evidence-based care to millions of Americans, especially to those living in rural and underserved areas. As the provider of choice for many patients, we understand the importance of ensuring providers are recognized to practice to the full extent of their training, education, licensure, certification, and experience to increase patient access to care and competition, lower costs and maintain quality and safety. Collectively, PARCA member organizations represent over 4 million providers throughout the nation, with expertise in a wide variety of patient care areas. To deliver for our patients, it is critical that the agencies promulgate enforceable rules pursuant to statutory requirements.

Earlier this year, the American Bar Association weighed in on how detrimental the lack of rulemaking on this provision has been. A March Op-Ed highlighted that, "Notwithstanding that this has been the law for the past 14 years, insurance companies and plans, including ERISA



plans, continue to discriminate on providers practicing within the full scope of practice”.¹ Without rulemaking to ensure that insurance companies adhere to the law, patients and providers will continue to suffer. Your agencies’ rulemaking on this provision is critical to patient access, choice, and competition within the healthcare marketplace. Failure to accomplish rulemaking in a timely manner means that the promises of the *Patient Protection and Affordable Care Act* continue to be unmet. Despite the clear intent of this language included in the *No Surprises Act* calling for rulemaking, as well as multiple Congressional letters calling for a strong rule implementing these protections, your agencies have not yet acted.

Without an enforceable rule, many non-MD/DO providers continue to face undue barriers to providing care, based on discriminatory policies from insurers. Our organizations have repeatedly provided examples to each of your agencies of how insurers continue to increase their profits on the backs of providers, inhibiting access to primary, specialty, and mental healthcare. We strongly urge your agencies to promulgate this long overdue rulemaking to protect patients, improve access to care, increase competition, particularly for the many rural and underserved patients that our providers care for.

On behalf of our providers and their patients, we strongly urge your agencies to uphold the Administration’s latest August 2024 deadline for promulgation of a strong, enforceable, provider nondiscrimination rule that honors Congressional intent and protects patient access to care. If our coalition, or any of our member organizations can be of assistance, please don’t hesitate to contact the PARCA Chair, Matthew Thackston at mthackston@aana.com or (202) 484-8400. We look forward to continuing our dialogue on this important issue.

Sincerely,

American Academy of PAs
American Association of Nurse Anesthesiology
American Association of Nurse Practitioners
American Association for Marriage and Family Therapy
American Chiropractic Association
American College of Nurse-Midwives
American Nurses Association
American Optometric Association
American Physical Therapy Association
American Podiatric Medical Association
American Speech-Language-Hearing Association

¹ American Bar Association. March 29, 2024. *Opinion: Provider Non-Discrimination Law Continues To Be Violated By Insurance Companies*. https://www.americanbar.org/groups/health_law/section-news/2024/march/opinion-provider-non-discrimination-law-continues-to-be-violated-by-insurance-companies/



National Association of Pediatric Nurse Practitioners
National Association of Social Workers
National League for Nursing