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**Re: Out-of-Network (OON) for Hospital Based Physicians**

I write this letter on behalf of more than 2000 anesthesia care providers in the state of Illinois. As hospital-based-physicians, we provide anesthesia care for **all** patients coming into the operating rooms irrespective of their financial or insurance status. Last year the Department of Insurance ruled to hold the patient harmless from OON balance billing. Following this, the recent passage of HB 5085 has resulted in a grossly unfair situation that benefits the insurance companies, while compromising the viability of hospital-based-physicians services in Illinois. Rather than elaborate on the universal opposition by hospital-based-physicians to HB 5085, the Illinois Society of Anesthesiologist (ISA) would like to offer solutions.

***Arbitration Limited to 5% of anesthesia claims per month***

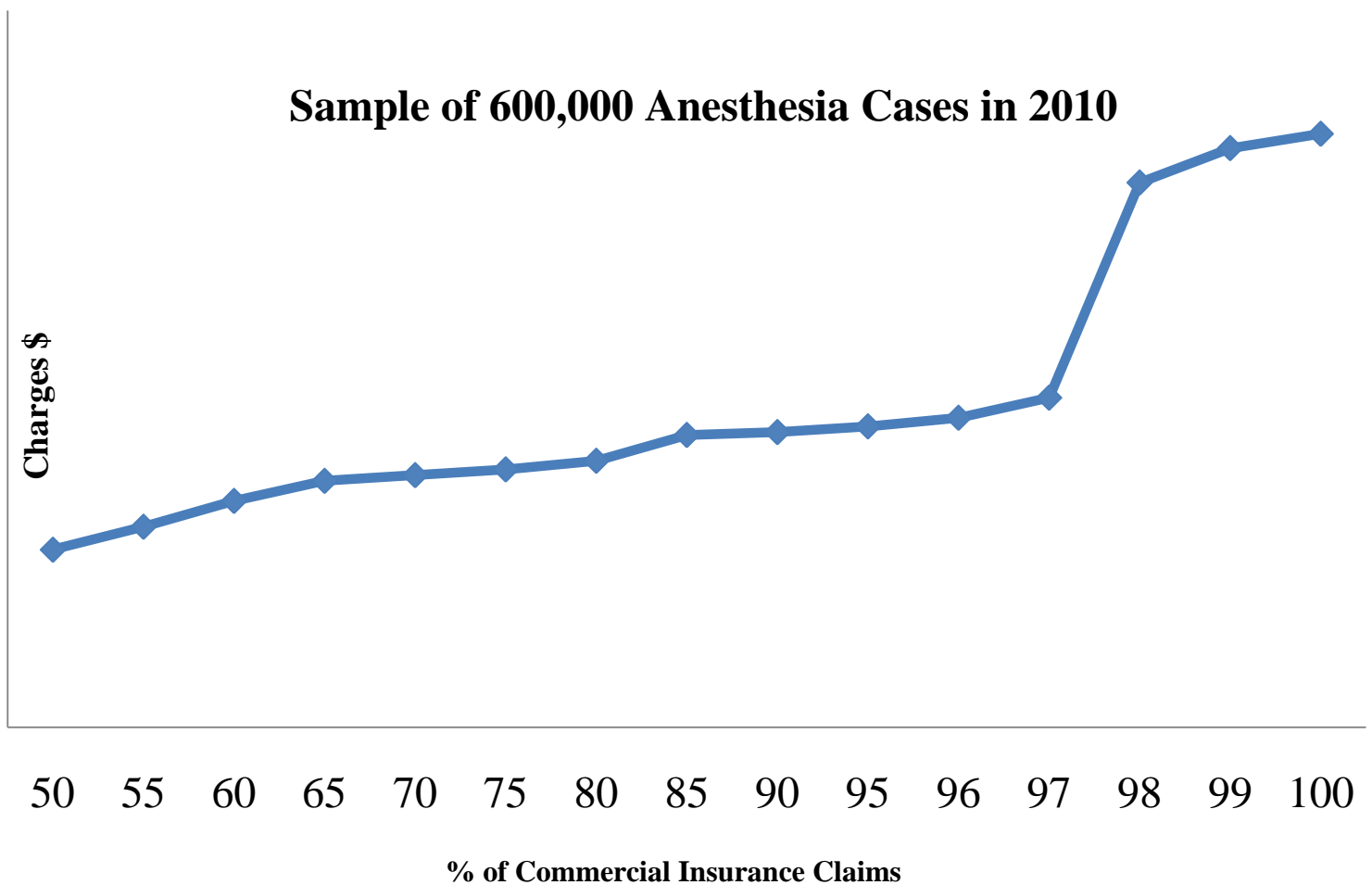
During the summer of 2010, one of the main problems identified by the insurance companies to our coalition of hospital-based-physicians was the existence of **outlier claims** for OON services, and that this needed to be fixed by legislation. Leadership of all hospital based physician societies unanimously concur with the intent of the insurance company to regulate the outlier charges and bills from hospital based physicians for services provided to patients at in-network hospitals. However, we believe that legislative or regulatory solutions need to specifically target this problem, rather than broadly impacting what is generally considered normal and acceptable billing practice used by the vast majority of hospital-based-physicians.

A solution to this matter is to focus the arbitration on the **outlier claims**. Following appropriate written negotiations, the insurance company could initiate arbitration within a month for up to **5%** of the claims in a 30 day cycle per hospital based specialty (study below demonstrates how we arrived at the 5% value). By this mechanism the insurance company can select the claims they believe are outliers for that month and initiate arbitration. ISA is deeply concerned that if the *majority or all of OON bills* could be arbitrated, that the insurance companies would have a great incentive to cancel in-network contracts with Anesthesiologist or other

hospital-based-physicians. Moreover, insurance companies have the financial and administrative resources to monitor every claim, while smaller groups of Anesthesiologists, such as those practicing in the critical access hospitals simply do not have the capability to administer the requirements of arbitration while also taking care of their patients coming into the operating room.

### ISA study of Anesthesia Claims in Illinois:

The Illinois Society of Anesthesiologist (ISA) has reviewed **600,000** anesthesia commercial insurance claims for 2010 to determine the scope of **outlier claims**. This review was undertaken by ISA to specifically examine the extent of the problem of outlier charges. The study included 900 Anesthesiologists and Certified Registered Nurse Anesthetists (CRNA) working at 38 hospitals in Illinois. Of these 38 hospitals studied 24 of them were in the Chicago metro area, 4 in western, 6 in central and 3 in southern Illinois. Seven of these hospitals were rural, with beds numbering less than 100.



The above study of more than half a million commercial anesthesia billing claims from hospitals spread geographically over Illinois clearly demonstrates that a marked step up in billing occurs after the 97<sup>th</sup> percentile, indicating that it is these claims that qualify as *outliers*. The spread of reimbursement of claims between the 50-97% demonstrates little variance, while the top 97 to 100% reflects a substantial variance, with the top 3%

accounting for over 44% of all reimbursed dollars. Limiting the number of cases that can be arbitrated to 5% as we propose will address the issue of **outliers** without impacting what is generally considered normal and acceptable billing practice.

The main reason ISA opines that arbitration should only occur for 5% of anesthesia claim bills per month is from the data we presented above. On the other hand the insurance companies have not presented any pooled data to support their claim of outlier charges. ISA believes this proposal is a rational compromise which enables commercial claims to be negotiated fairly and to avoid unlimited arbitrations initiation by the health care insurance companies which will lead to 1) Anesthesiologists and other hospital-based-physicians being forced to accepting in-network contracts that are not reasonable or face OON status when their contracts are not renewed or approved and the insurance companies having the capability to arbitrate all OON claims or 2) result in Anesthesiologists leaving the state. **ISA has taken the initiative to demonstrate from this study the low incidence of outlier charges for OON and as such, we request that ONLY up to 5% of anesthesia OON claims be potentially arbitrated in a period of 30 days in Illinois.**

ISA truly appreciates the time and effort you have placed on this OON matter and we are available to discuss this further if you wish. As the president of ISA, I have had hundreds of phone calls from concerned members regarding the direct impact it will have on them and the patients that they take care of on a daily basis. I urge you to examine the study ISA conducted and look forward to further discussion with you.

Thank you

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Asokumar Buvanendran', with a long horizontal flourish extending to the right.

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