



**S.309 - Limitations on health care contract provisions and surprise medical bills**  
**Senate Finance Committee – February 11, 2020**  
**Dr. Joshua Green, Naturopathic Physician**

The Vermont Association of Naturopathic Physicians (VANP) requests your support of S.309. This important bill aims to protect Vermonters from surprise billing without penalizing referring providers for recommending the care that they think is best for their patients.

I would like to address the health care contract provisions in S.309. This part of the bill is in response to a payment policy that BCBSVT announced last summer. Under the policy, in certain circumstances, providers who refer their patients for out-of-network services can now be held financially liable for fees charged to patients by those out-of-network providers. BCBSVT is not only placing the financial responsibility on the referring health care provider, they are also placing the burden on the referring provider to know which providers are in-network

There are many shortfalls with this policy, including:

- It is unreasonable to require that a referring provider must know whether the referred provider is in-network or out-of-network.
- Imposing referring provider fines/liability will deter providers from recommending medical treatment that may be in the best interest of the patient.
- The new BCBSVT payment policy in effect puts them in a position of making medical decisions for providers, which is beyond the scope of their expertise and knowledge.
- The financial liabilities could threaten the solvency of smaller medical practices.
- No other payers in Vermont have such a heavy-handed policy.

Here is an example of an out-of-network referral that may occur in my practice. A patient comes in to see a naturopathic primary care provider for low back pain. The patient tells the ND their history and is given a physical exam. The patient is prescribed some dietary changes, natural medicine, and prescriptive medicine options if the pain does not get better in the prescribed amount of time. A referral is made to the best physical therapist in town for low back pain. The ND has no way of knowing for certain if the physical therapist is in-network or will be in-network at the time the patient goes to the appointment. The policy would require the ND to call the PT's office and confirm the PT is in-network (this also assumes the PT's office picks up the phone and has the time to look up the information). Even if it is determined at that time that the PT's office is in-network, the PT may switch the insurance companies with which they contract by the time the patient sees the PT. If the patient sees this PT and the PT is out of network, BCBSVT expects the ND to pay for the visit or pay a fine.

I called BCBSVT to discuss this policy with them when I received a letter about it. The person with whom I spoke said that, despite the language in the new policy, they would only charge the providers if they were repeat offenders. They promised to give a warning call the first time it occurred. Not only is this contrary to their written policy, they have not, to my knowledge, put that in writing or revised their policy.

Thank you for your consideration of S.309.