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March 21, 2017

The Honorable Bill Monning
Senate Majority Leader
State Capitol, Room 313
Sacramento, CA 95814

RE: SB 538—Support

Dear Senator Monning:

We write to express our strong support for SB 538, important legislation that will increase competition among healthcare provider groups and lower costs for millions of California consumers. If enacted, the law will prohibit dominant providers from including anti-competitive provisions like “all-or-nothing” clauses, tiering restrictions, and gag clauses in health plan contracts. Our members have long supported efforts to level the playing field and bring greater transparency to the healthcare marketplace.

The Pacific Business Group on Health (PBGH) and Silicon Valley Employers Forum (SVEF) are California-based non-profit organizations who collectively represent 70 large public and private employers dedicated to improving quality and affordability across the U.S. health system. Though we are national organizations, our roots in California are strong—and we are deeply knowledgeable and experienced in how care is financed, organized, and delivered in the state. Last year, our members spent more than \$12 billion dollars providing coverage to over three million California employees, retirees, and dependents.

A robust body of academic research demonstrates that dominant providers are using their market power to engage in monopolistic contracting practices and negotiate unfair prices.¹ Our experience—particularly in Northern California—is no different. Large systems are requiring purchasers to include every facility in a provider’s network, regardless of performance. Groups are prohibiting employers and vendors from proactively disclosing the cost of a test or procedure before an employee receives care, undercutting efforts to help consumers make fully informed decisions. Data that is shared often must undergo an onerous and lengthy process of approval by large provider systems.

In addition, some groups are restricting an employer’s ability to provide employees with incentives for seeking care from high performing facilities and networks. In some cases, facilities impose a financial penalty and require renegotiation of contracted rates after purchasers engage in this type of value-based “tiering.” In other cases, dominant facilities explicitly prohibit it. SB 538 directly addresses and will prevent these monopolistic contracting practices.

¹ P. Ginsburg, *Wide Variation in Hospital and Physician Payment Rates Evidence of Provider Market Power*, HSC Research Brief No. 16, (Washington: Center for Studying Health System Change, November 2010).



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Thank you for your leadership on legislative efforts to create a level playing field and restore competition among healthcare providers in the state of California. Please contact us should you require any additional information or clarification.

Sincerely,

David Lansky, PhD
President and CEO
Pacific Business Group on Health

Lisa Yee
Executive Director
Silicon Valley Employers Forum