

UPDATE



# neurosurgery

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**Contact:**

Katie O. Orrico

(703) 362-4637

[korrico@neurosurgery.org](mailto:korrico@neurosurgery.org)

## **Neurosurgeons Lead Amicus Brief in Lawsuit Challenging No Surprises Act Final Rule**

*Rule unlawfully skews the dispute resolution process in favor of health plans violating the clear language of the law.*

Washington, DC—The American Association of Neurological Surgeons (AANS) and the Congress of Neurological Surgeons (CNS) spearheaded a [physician-led amicus brief](#), along with the [Physician Advocacy Institute](#), supporting the Texas Medical Association’s (TMA) [lawsuit](#) challenging parts of the [final rule](#) implementing the No Surprises Act’s independent dispute resolution (IDR) process. Fourteen specialty societies and 14 state medical associations also joined the brief. The new lawsuit is filed in the same Texas Federal Court that [previously ruled](#) in the TMA’s favor. Physicians strongly support protecting patients from unanticipated medical bills, and neither the amicus brief nor the lawsuit challenges the patient protection elements of the rule.

The No Surprises Act resolves certain payment disputes between health plans and physicians through an independent, third-party arbiter. It requires arbiters to equally consider several factors, including median in-network rates, the physician’s training and experience, the severity of the patient’s medical condition, prior contracting history, health plan market share and other relevant information. Despite the statute’s plain and unambiguous language and the Texas court’s previous ruling, the final rule violates the No Surprises Act by giving preference to the qualifying payment amount — or median in-network rate — which unfairly favors insurers when settling out-of-network payment disputes.

“Congress enacted a thoughtful and balanced approach to protect patients from unanticipated medical bills for out-of-network care that also included a fair process for resolving billing disputes,” said John K. Ratliff, MD, FAANS, a practicing neurosurgeon at Stanford University and chair of the AANS/CNS Washington Committee.

Dr. Ratliff added, “This deeply flawed regulation will continue to incentivize insurers to offer physicians take-it-or-leave-it contracts and drop physicians from their network — driving more, not fewer, patients to seek out of network care. This was precisely the opposite of what Congress intended when it passed the No Surprises Act, and we hope the court will once again rule in the TMA’s favor to avert the proliferation of narrow provider networks, which jeopardize patients’ timely access to care.”

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*The American Association of Neurological Surgeons (AANS), founded in 1931, and the Congress of Neurological Surgeons (CNS), founded in 1951, are the two largest scientific and educational associations for neurosurgical professionals in the world. These groups represent over 10,000 neurosurgeons worldwide. Neurological surgery is the medical specialty concerned with the prevention, diagnosis, treatment and rehabilitation of disorders that affect the entire nervous system, including the spinal column, spinal cord, brain and peripheral nerves. For more information, please visit [www.aans.org](http://www.aans.org), [www.cns.org](http://www.cns.org) and [www.neurosurgery.org](http://www.neurosurgery.org).*