Testimony of, James P. Foreman, Partner
ProCare, PT, LP (a Physical Therapy provider in PA)

PA House - Labor & Industry Committee
Hearing on House Bill 1141, Workers' Compensation Provider Issues
September 13, 2016

Chairman Ginrich and members of the committee, thank you for the opportunity to testify before you today. My name is Jim Foreman and I am a Partner and one of the founding members of ProCare which started in 1994 and today operates 13 outpatient-based and hospital contracted therapy facilities in central PA. We have been directly involved with PA Workers' Compensation as a provider for over 20 years. We are in support of House Bill 1141.

Before providing my testimony regarding the reasons for supporting this bill let me please refer you the section of the Workers' Compensation Act which, through subsequent Acts to the original Act, affords employers the option to "establish a list of designated health care providers" (commonly referred to as "panel providers").

<< excerpt of Act shown below >>

127.751 SUBCHAPTER D. EMPLOYER LIST OF DESIGNATED PROVIDERS

Employer's option to establish a list of designated health care providers

(a) Employers have the option to establish a list of designated health care providers under section 306(f.1)(1)(i) of the act (77 P. S. § 531(1(i)).

Now to my testimony,

The practice of establishing a list of designated health care providers has become popular amongst many employers and their insurance carriers. We actively serve as a panel provider for a large number of employers and have done so successfully for many years. The concept of having pre-established knowledge as a panel provider and having familiarity with an employer allows us to better understand the work environment and specific job requirements of any injured employees ***before*** injuries occur requiring rehabilitative care. Oftentimes we visit the workplace to tour the facilities and work conditions. We frequently gather data about specific job demands which allows us to return injured workers to their workplace with the security and knowledge that it is both safe and sustainable. When good panels are established and practices like what I described occur, there is an effective "team approach" to rehabilitating injured workers and having them return to work in an appropriate, safe and sustainable fashion.

Enter the Networks. In the late 1990's/early 2000's we were approached with concept of joining "Networks". The "pitch" was simple. The networks represented that they had contracts with many [undisclosed] large employers and they were looking to create streamlined efficiencies by working with a select number of providers in market areas who had expertise in workers' compensation and could treat injured workers effectively. If we join their network we would see higher referral volumes by virtue of their employer contracts. In exchange, we would concede to a minor discount in our reimbursements, but claims would be paid quickly and directly by the networks (versus the insurance carriers). We bit and it was a mistake. There were contracts with employers but they were non-exclusive. We also discovered that the screening criteria to enter a network were low…so low in fact that all you needed was to be licensed. The idea that networks sat as "middlemen" between providers and carriers/case managers proved to be cumbersome and prevented direct communication with the Nurse Case Managers and Claims Adjusters which is oftentimes critical. We exited the networks.

Several years later we were re-pitched that the networks had drastically improved and now most of their contracts were with the carriers (versus employers). The required discounting was more severe but the innuendo of being "locked out" drove a certain amount of fear in the consideration. We re-joined the ever evolving networks. This was a big mistake, again. There is/were non-exclusive agreements across various networks and insurance carriers. Additionally, with networks now being owned/integrated with other networks (referred to as "stacking") - all unbeknownst to us - there was sometimes utter confusion at the time when an injured worker was referred for care. Many times we had to delay treating a patient while the multiple networks argued as to who had the contract with that specific carrier. Surprisingly, when we approached the carriers to make them aware of our concerns it fell on [seemingly] deaf ears. Then a bell went off in our head. In all likelihood the insurance carriers like using the networks because it lightens the workload and helps to reduce their own internal labor costs. The physical therapy portion of the adjuster's workload was largely offloaded to the networks. Employees do not [necessarily] get better care. They get "cheapest price-per-visit" care.

Despite concerns about the inner workings of the networks' operations and the huge financial bonanza they seize at the expense of the system, networks are <u>not</u> illegal and nothing prevents an employer, insurance carrier or medical provider from contracting amongst themselves.

However, networks- with the insurance carriers' knowledge- have designated themselves as health care providers and, in doing so, have inappropriately represented themselves as a "Health Care Provider" on the employer's list of designated health care providers, oftentimes without any knowledge of, or description to, the employer. **<u>House Bill 1141 correctly defines "health care provider" as including a National Provider Identifier (NPI)</u>** which is typical and required amongst all health care providers licensed under Medicare (CMS).

Again, there is nothing illegal about the existence of a network, but they're clearly not a health care provider. A remedy for their involvement would be for them to consult with the employers and carriers with whom they contract and designate *which* of their network participating health care providers serve in that employer's geographic region. Then simply list the provider(s). It would be clear to both the employee and employer. To further amplify the need for this type of remedy, the workers' compensation act specifically states the requirement to list a 'panel providers' name, address, phone, etc. It also must be geographically accessible.

<< excerpt of Act shown below >>

127.752 Contents of list of designated health care providers

(b) The employer shall include the names, addresses, telephone numbers and areas of medical specialties of the designated providers on the list.

(c) The employer shall include on the list only providers who are geographically accessible and whose specialties are appropriate based on the anticipated work-related medical problems of the employes.

Members of the Committee, please carefully consider your support of House Bill 1141 as it rebalances the overreaching which networks have done with the apparent approval of certain insurance carriers. If pushed on the arguments that networks save employers and the Commonwealth significant money by being hard lined negotiators of medical care services, I would ask you to seek transparency on net payments to providers versus the corresponding amounts charged to employers. You will likely see significant imbalance in fees paid to the health care providers- *who are actually providing the medical care*- versus the fees paid to, or retained by, the networks. The PA Workers' Compensation Act has set limits on reimbursements to health care providers. That system is well established and easily researched. If interested in pursuing the financial aspects of the various relationships, we would welcome the opportunity to open and transparent discussions and explorations of who is getting what percentage and distribution of the employers' monies and insurance premiums designated as physical therapy costs.

Thank you for the opportunity to present my testimony.

Respectfully submitted,

James P. Foreman, Partner
ProCare PT, LP
310 Penn St., Suite 103
Hollidaysburg, PA 16648
(814) 695-2923 jforeman@procarebetter.com