

NO SURPRISES ACT

In December 2020, Congress passed the No Surprises Act. It was mainly intended to reduce unexpected medical bills for patients (as example: you have surgery that is covered by your insurance and then get a huge bill from the anesthesiologist, who turns out to be out-of-network for your plan). This law goes into effect January 1, 2022. New information about this law and requirements and how they relate to private practice psychotherapists just became widely available last week. Our professional associations did not even realize the implications, and it seems that most of the thousands of therapists it affects across the country, me included, found out about this law via Facebook or word of mouth!

The basics of the requirements are already in place for almost all private practice therapists, as our professional associations have strong ethical standards requiring us to:

- inform our clients of fees before commencing treatment
- make it clear that, if you have insurance, you have the option to seek a provider within your network at a lower fee, and
- allow clients who choose to work with someone out-of-network to receive a "superbill" which can be submitted for possible partial reimbursement, depending on the policies of your individual plan (superbills also contain diagnostic codes, which are another requirement of this new bill)

Some requirements of this new legislation are expanded from the above. According to this law, we are directed to provide a diagnosis before commencing treatment (in direct contradiction with the ethical standards of our profession, which would never allow diagnosing someone without seeing them). And we are required to provide a Good Faith Estimate, to predict total costs in advance of treatment. This would make sense for something like setting a broken bone, but as you undoubtedly realize, psychotherapy does not generally work like that. We might have an idea what the trajectory of treatment for a particular issue will be, based on experiences with other clients, but we cannot know exactly what might lie beneath the tip of the iceberg that initially brings someone to see a therapist, or what other concerns might arise during the course of treatment.

Like most private practice therapists, I submit charges each session, so there are no hidden costs. I can estimate length of time for certain conditions I treat (generally weekly appointments for the first 6-8 weeks, then begin to spread out to alternate weeks or more, of course depending on the individual circumstances or additional issues that may need to be addressed). To determine cost over the course of 6 months or a year, we could simply multiply the fee per session by the number of estimated sessions.

Implementation of this new law seems to be a gray area at the moment. There are contradictory interpretations of several aspects of it, and conflicting information about what needs to be done before March or December (two of the dates that come up in terms of requirements). There are also likely to be challenges to the inclusion of psychotherapists in the way this legislation was intended.

Nevertheless, the first steps I am supposed to take will be to provide you with two new forms to sign, which indicate you understand your rights:

- A questionnaire to determine your insurance and claim format
- A notice about Good Faith Estimates

I am working on creating those forms to reflect my own practice and will send them as soon as I get them together. I always try to keep paperwork to a minimum to reduce additional stress that such things tend to cause. I am posting this note as a means of informing about the act and its provisions. As far as I can see at this point, none of this will impact what we actually have been doing in therapy, and I anticipate we will be able to continue without any interruptions.

If you would like to look at the act for yourself, you can find out more here:

<https://www.cms.gov/nosurprises>