

December 7, 2009

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, DC 20510

Dear Senator Reid:

The undersigned state and national specialty medical societies are writing you on behalf of more than 92,000 physicians **in opposition to passage of the “Patient Protection and Affordable Care Act”** (H.R. 3590) and to urge you to draft a more targeted bill that will reform the country’s flawed system for financing healthcare, while preserving the best healthcare in the world. While continuance of the status quo is not acceptable, the shifting to the federal government of so much control over medical decisions is not justified. We are therefore united in our resolve to achieve health system reform that empowers patients and preserves the practice of medicine -- without creating a huge government bureaucracy.

H.R. 3590 creates a number of problematic provisions, including:

- The bill **undermines the patient-physician relationship and empowers the federal government** with even greater authority. Under the bill, 1) employers would be required to provide health insurance or face financial penalties; 2) health insurance packages with government prescribed benefits will be mandatory; 3) doctors would be forced to participate in the flawed Physician Quality Reporting Initiative (PQRI) or face penalties for nonparticipation; and 4) physicians would have to comply with extensive new reporting requirements related to quality improvement, case management, care coordination, chronic disease management, and use of health information technology.
- The bill is **unsustainable** from a financial standpoint. It significantly expands Medicaid eligibility, shifting healthcare costs to physicians who are paid below the cost of delivering care and to the states that are already operating under severe budget constraints. It also postpones the start of subsidies for the uninsured long after the government levies new user fees and new taxes to cover expanded coverage and benefits. This “back-loading” of new spending makes the long-term costs appear deceptively low.
- The government run **community health insurance option** eventually will lead to a single-payer, government run healthcare system. Despite the state opt-out provision, the community health insurance option contains the same liabilities (i.e. government-run healthcare) as the public option that was passed by the House of Representatives. Such a system will ultimately limit patient choice and put the government between the doctor and the patient, interfering with patient care decisions.

- Largely unchecked by Congress or the courts, the federal government would have unprecedented authority to change the Medicare program through the new **Independent Medicare Advisory Board** and the new **Center for Medicare & Medicaid Innovation**. Specifically, these entities could arbitrarily reduce payments to physicians for valuable, life-saving care for elderly patients, reducing treatment options in a dramatic way.
- The bill is **devoid of real medical liability reform measures that reduce costs in proven demonstrable ways**. Instead, it contains a “Sense of the Senate” encouraging states to develop and test alternatives to the current civil litigation system as a way of addressing the medical liability problem. Given the fact that costs remain a significant concern, Congress should enact reasonable measures to reduce costs. The Congressional Budget Office (CBO) recently confirmed that enacting a comprehensive set of tort reforms will save the federal government \$54 billion over 10 years. These savings could help offset increased health insurance premiums (which, according to the CBO, are expected to increase under the bill) or other costs of the bill.
- The **temporary one-year SGR “patch”** to replace the 21.2 percent payment cut in 2010 with a 0.5 percent payment increase fails to address the serious underlying problems with the current Medicare physician payment system and compounds the accumulated SGR debt, causing payment cuts of nearly 25 percent in 2011. The CBO has confirmed that a significant reduction in physicians’ Medicare payments will reduce beneficiaries’ access to services.
- The **excise tax on elective cosmetic medical procedures** in the bill will not produce the revenue projected. Experience at the state level has demonstrated that this is a failed policy. In addition, this provision is arbitrary, difficult to administer, unfairly puts the physician in the role of tax collector, and raises serious patient confidentiality issues. Physicians strongly oppose the use of provider taxes or fees of any kind to fund healthcare programs or to finance health system reform.

Our concerns about this legislation also extend to what is *not* in the bill. The **right to privately contract** is a touchstone of American freedom and liberty. Patients should have the right to choose their doctor and enter into agreements for the fees for those services without penalty. Current Medicare patients are denied that right. By guaranteeing all patients the right to privately contract with their physicians, without penalty, patients will have greater access to physicians and the government will have budget certainty. Nothing in the Patient Protection and Affordable Care Act addresses these fundamental tenets, which we believe are essential components of real health system reform.

Senator Reid, we are at a critical moment in history. America’s physicians deliver the best medical care in the world, yet the systems that have been developed to finance the delivery of that care to patients have failed. With congressional action upon us, we are at a crossroads. One path accepts as “necessary” a substantial increase in federal government control over how medical care is delivered and financed. We believe the better path is one that allows patients and

physicians to take a more direct role in their healthcare decisions. By encouraging patients to own their health insurance policies and by allowing them to freely exercise their right to privately contract with the physician of their choice, healthcare decisions will be made by patients and physicians and not by the government or other third party payers.

We urge you to slow down, take a step back, and change the direction of current reform efforts so we get it right for our patients and our profession. We have a prescription for reform that will work for all Americans, and we are happy to share these solutions with you to improve our nation's healthcare system.

Thank you for considering our views.

Sincerely,

Medical Association of the State of Alabama
Medical Society of Delaware
Medical Society of the District of Columbia
Florida Medical Association
Medical Association of Georgia
Kansas Medical Society
Louisiana State Medical Society
Missouri State Medical Association
Nebraska Medical Association
Medical Society of New Jersey
South Carolina Medical Association
American Academy of Cosmetic Surgery
American Academy of Facial Plastic and Reconstructive Surgery
American Association of Neurological Surgeons
American Society of Breast Surgeons
American Society of General Surgeons
Congress of Neurological Surgeons

Past Presidents of the American Medical Association

Daniel H. Johnson, Jr., MD
AMA President 1996-1997

Donald J. Palmisano, MD, JD, FACS
AMA President 2003-2004

William G. Plested, III, MD, FACS
AMA President 2006-2007

cc: Members, U.S. Senate