

September 20, 2009

The Honorable Nancy Pelosi  
Speaker  
U. S. House of Representative  
Washington, DC 20515

The Honorable John A. Boehner  
Minority Leader  
U. S. House of Representatives  
Washington, DC 20515

Dear Speaker Pelosi and Minority Leader Boehner,

The undersigned organizations, representing an important coalition of surgical associations, are united in our goal of bringing into focus the urgent issues facing access to quality surgical care for our patients. Our members are committed to helping policymakers craft workable solutions that address access problems while preserving and improving high-quality surgical care for all and we are therefore dedicated to enacting comprehensive reform of our nation's health care system.

Throughout the year, we have been working closely with the House Ways and Means, Energy and Commerce and Education and Labor Committees to ensure that reform legislation will ultimately provide individuals with consistent access to patient-centered, timely, unencumbered, affordable, and appropriate health care and universal coverage while maintaining that surgeons are an integral and irreplaceable component of providing the highest quality treatment. To this end, the surgical community has developed the attached detailed principles – “Surgeons and Health Care Reform” -- that we believe must be recognized in any health care reform bill.

Thank you for your leadership and commitment to comprehensive health care reform. We look forward to working with you as health care reform continues to move through the legislative process.

Sincerely,

American Academy of Facial Plastic and Reconstructive Surgery  
American Academy of Ophthalmology  
American Academy of Otolaryngology-Head and Neck Surgery  
American Association of Neurological Surgeons  
American Association of Orthopaedic Surgeons  
American College of Obstetricians and Gynecologists  
American College of Osteopathic Surgeons  
American College of Surgeons  
American Osteopathic Academy of Orthopedics  
American Society of Breast Surgeons  
American Society of Cataract and Refractive Surgery  
American Society of Colon and Rectal Surgeons  
American Society for Metabolic & Bariatric Surgery  
American Society of Plastic Surgeons  
American Urological Association  
Congress of Neurological Surgeons  
Society for Vascular Surgery  
Society of American Gastrointestinal and Endoscopic Surgeons  
Society of Gynecologic Oncologists  
Society of Surgical Oncology  
The Society of Thoracic Surgeons

## Surgeons and Health Care Reform

The surgical community strongly supports efforts that ensure that individuals have consistent access to patient-centered, timely, unencumbered, affordable, and appropriate health care and universal coverage while maintaining that surgeons are an integral and irreplaceable component of providing the highest quality treatment. To this end, in any health care reform bill, the surgical community strongly **supports**:

### ***Repealing the current sustainable growth rate (SGR) immediately and establishing a new baseline for the physician payment system***

- For full-scale health care reform to be successful, Medicare's physician reimbursement system must be set on a path toward full-scale and permanent reform.
- Congress must incorporate a realistic budget baseline that provides physicians with positive updates.
- During the transition period to a new payment system, Congress should replace the SGR with a system of separate service category growth rates (SCGR). The four SCGR categories (primary care; other evaluation and management services; major surgery; and all other physician services) would recognize the differences among the various types of services and account for their varied rates of growth, while providing additional dollars for primary care.

### ***Addressing surgical workforce problems through improvements to the graduate medical education system***

- A redistribution of unused residency training positions may begin to address the workforce shortages in primary care and general surgery, but consideration should also be given to lifting residency caps as an option for addressing the emerging workforce shortages in other medical specialties.
- Simply reallocating unused residency training slots has the potential to exacerbate already apparent and emerging workforce shortages in some surgical specialties unless an option to lift residency caps is included.
- Surgery also recommends that the Congress make loan forgiveness programs available to surgical specialties with documented current or potential workforce shortages, especially those specialties with longer training programs.

### ***Incorporating certain medical liability reforms in comprehensive health care reform, including:***

- Provisions modeled after the laws in California or Texas, which include reasonable limits on non-economic damages.
- Alternatives to civil litigation, such as health courts and early disclosure and compensation offers;
- Protections for physicians who follow established evidence-based practice guidelines;
- Protections for physicians volunteering services in a disaster or local or national emergency situation

### ***Promoting tested quality improvement initiatives***

Surgery understands that all segments of the health care population find a great deal of value in the collection and analysis of physician quality data and that it is important to provide patients, the public and physicians with accurate information on physician quality. However, improvements to the current Physician Quality Reporting Initiative (PQRI) should:

- Ensure the program remains voluntary and provides positive incentives for participation;
- Provide access to data in a timely manner and it must have a reasonable appeals process;

- Delay the release of public reports using data until further evaluation and improvements including risk adjustment occur;
- Provide additional federal funding to develop clinical data registries and other quality improvement tools

### **Embracing the need for well-designed clinical comparative effective research**

- Surgery urges Congress to build off the framework of the *Comparative Effectiveness Research Act of 2009* (H.R. 2502), sponsored by Rep. Kurt Schrader, and the *Patient-Centered Outcomes Research Act of 2009* (S. 1213), sponsored by Senators Max Baucus and Kent Conrad.
- Any comparative effectiveness research should be a tool to improve care on a per-patient basis by providing information on clinical value of varying treatments and interventions and should not be used for determining medical necessity or making coverage and payment decisions or recommendations.

### **Ensuring responsible physician ownership**

- Physicians should have the ability to responsibly and professionally own, either individually or through a joint venture (with hospitals and/or other physicians), facilities (including hospitals), equipment, and services that appropriately provide high quality care for patients. Congress should not prohibit their development and further expansion. Physicians should be obligated, however, to disclose this ownership information to the public.

### **Encouraging realistic Health Information Technology (HIT) Use and Adoption**

- Surgery is concerned about the current HIT timelines for bonuses and penalties established in the *American Recovery and Reinvestment Act* (ARRA) with the continued lack of interoperability and certified HIT systems. We urge Congress to amend the current bonus and penalty timelines so the entire surgical community can participate fully.

### **Transparency and Evidence-Based Decision-Making for Imaging Services**

- Surgery supports the continued ability of physicians to own, operate and refer patients to in-office imaging services and agree that the Stark in-office ancillary exception should be amended to require the referring physician to provide patients with a written disclosure of financial interests and a list of alternate suppliers.
- In those circumstances involving multiple referrals, after the initial disclosure to a particular patient, physicians should only be required to make a disclosure annually to that patient.
- Any appropriateness criteria system must also apply to radiologists when they make recommendations for additional imaging tests.
- Surgery supports a non-punitive approach to eliminate unnecessary imaging based on education and confidential feedback programs; however we are opposed to the penalty system outlined in the proposal.
- Surgery opposes subjecting ultrasound and less expensive imaging modalities to the 75 percent equipment use rate. We therefore urge Congress to specifically exclude ultrasound from the definition of imaging services to which the equipment use rate formula is applied or any other reimbursement reductions directed at imaging services.

### **Physician Payment Sunshine**

- Surgery strongly supports disclosure and transparency of physician and industry relationships through a single, federal reporting system that preempts state law.
- Physicians should have the opportunity to review and correct information about their financial relationships before those disclosures are made publically available.

- Congress should not include reporting of industry funding for continuing medical education (CME) and professional organizations.

### **Certain Hospital and Readmission Bundling**

- Surgery is concerned with the unintended consequences that a hospital readmission and post-acute bundling policy may carry, particularly the potential avoidance of patients with complex medical conditions. The surgical community therefore urges Congress to recognize the need for risk adjustment when calculating readmission benchmarks.
- When the readmission policy is phased out and the bundled payment policy is implemented, a workable and reasonable readmission policy must remain an essential piece of the initiative.
- Congress must also develop a coherent risk adjustment policy as the primary method for preventing the practice of deselection of patients, addressing the readmission issue, and ultimately providing the highest quality and most appropriate level of patient care with these methods of payment.
- Congress should exclude readmissions for a different diagnosis than the original admission in either the hospital readmission or post-acute bundling policy.

### **Innovative Payment Options**

- Surgery supports the development and testing of shared savings payment models for physician, hospital and other provider services. The Secretary or GAO should fully evaluate any shared savings program and report back to Congress within five years of enactment before a more expanded, permanent share savings program is implemented.
- If implemented, participation in shared savings programs should be voluntary, non-punitive and not restrict patient choice.
- Congress should amend the Stark physician self-referral and antitrust laws and/or regulations to allow provider collaboration and flexibility in the development of shared savings programs.

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The surgical community **opposes** the following proposals and believes they must not be included in any final comprehensive health care reform package:

#### **Short-term solution to SGR**

- Surgery does not support another short-term “patch” that only temporarily prevents Medicare payment cuts and does not directly address the long-term problems with the SGR.

#### **Budget neutrality**

- Surgery opposes any measure that would finance increased payments for primary care and general surgery by an across-the-board reduction in payments for all other physician services.

#### **Independent Medicare Advisory Commission**

- Surgery opposes the inclusion of the *Independent Medicare Advisory Council (IMAC) Act of 2009* and the *Medicare Payment Advisory Commission (MedPAC) Reform Act of 2009* (H.R. 2718, S. 1110, S. 1380) or other similar construct.
- Medicare payment policy require a broad and thorough analysis of providers and beneficiaries and leaving those payment policy decisions in the hands of unelected, unaccountable governmental body with minimal Congressional input will negatively impact the availability of quality, efficient health care.

### **Public Health Care Option Tied to Medicare**

- Surgery does not support tying the public plan option to Medicare rates. Health reform legislation that includes a public plan option must expressly state that physicians are not mandated to participate in such a plan.

### **Misvalued Codes under the Physician Fee Schedule**

- Surgery opposes the creation of a duplicative process for determining code values. Surgery supports maintaining the role of the AMA/Specialty Society Relative Value Update Committee (RUC) as the entity through which medical services are valued. The RUC continues to be a dynamic process, which makes recommended increases *and decreases* in the value of codes reimbursed under the Medicare Physician Fee Schedule.

### **Payment for Efficient Areas**

- Surgery is concerned about arbitrary adjustments of payments based on geographic differences in utilization of medical services, particularly since such adjustments are not appropriately risk-adjusted. We support addressing any geographic disparities by extending the geographic floor for work.

### **Improving Accountability for Approved Medical Residency Training**

- Surgery opposes any proposals that would (1) set forth in law the goals of medical education and (2) require a GAO study to evaluate training programs.
- Surgery believes very strongly that medical education should remain in the purview of medical educators, including the Accreditation Council for Graduate Medical Education (ACGME). The ACGME and surgical specialties are constantly evaluating and reevaluating graduate medical education curricula to ensure that it is appropriately achieving the goals of medical residency training and education.

### **Radiology Benefit Managers (RBM)**

- Surgery is fundamentally opposed to the use of radiology benefit managers or other draconian pre-certification requirements for imaging services in Medicare.

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