



COLLEGE of AMERICAN PATHOLOGISTS

June 5, 2017

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Chuck Schumer
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Orrin Hatch
Chairman, Finance Committee
United States Senate
Washington, DC 20510

The Honorable Ron Wyden
Ranking Member, Finance Committee
United States Senate
Washington, DC 20510

The Honorable Lamar Alexander
Chairman, HELP Committee
United States Senate
Washington, DC 20510

The Honorable Patty Murray
Ranking Member, HELP Committee
United States Senate
Washington, DC 20510

Dear Senators McConnell, Schumer, Hatch, Wyden, Alexander, and Murray:

On behalf of the College of American Pathologists (CAP) and its members providing diagnostic services to patients across the country, I ask that you and your colleagues prioritize patient access to meaningful insurance coverage, maintain key patient protections and make policy adjustments to reduce the regulatory burden on physicians as the Senate develops its health care reform bill.

As the world's largest organization of board-certified pathologists and leading provider of laboratory accreditation and proficiency testing programs, the CAP serves patients, pathologists, and the public by fostering and advocating excellence in the practice of pathology and laboratory medicine worldwide. Pathologists are physicians whose diagnoses drive care decisions made by patients, primary care physicians, and surgeons. When other physicians need more information about a patient's disease, they often turn to pathologists who provide specific diagnoses for each patient. The pathologist's diagnosis and value is recognized throughout the care continuum and many patient encounters.

The CAP has adopted a set of policy principles as a framework for changes to the Affordable Care Act (ACA) and we urge Congress to consider these key components during deliberations to reform our current health care system. These principles are:

- Any efforts to reform the health care system at the national, state or local levels should ensure that individuals with healthcare insurance can continue to access affordable insurance without interruption and take steps toward coverage and access for all Americans.
- Maintain key insurance market reforms, such as pre-existing conditions, parental coverage for young adults, and elimination of annual and lifetime coverage caps.
- Protect prevention and screening services that are currently covered.
- Stabilize and strengthen the individual insurance market.
- Reduce regulatory burdens on physicians implemented as part of the ACA and subsequent Medicare legislation that expanded upon the ACA.



Additionally, the CAP would like to take this opportunity to expand upon the last principle. While Congress considers health care reforms this session, the CAP believes that policy adjustments are needed. The CAP's goal is to ensure that health care regulations are implemented in an open and transparent manner. Greater accountability and oversight is needed in some areas where Congress has given HHS very broad discretionary authority to develop and execute policies, with limited physician input, which inhibit the ability of pathologists to make the best decisions for their patients. Input from frontline providers, like pathologists, will be essential to successful reform. The policy adjustments that are outlined below are needed to reduce the regulatory burden and allow them to focus on the care they provide for their patients.

Medicare Local Coverage Determination (LCD) Process

The CAP urges Congress to reform the Medicare Local Coverage Determination (LCD) process to improve transparency and accountability. The CAP's goal is to ensure that coverage decisions are made by qualified health experts through a transparent process based on sound medical evidence. By changing the LCD process, Congress can help ensure that medical and scientific evidence is not used selectively to deny appropriate coverage to Medicare beneficiaries. Furthermore, reforms are necessary to ensure that LCDs do not impede a physician's medical judgment and deny patients access to medically necessary care. The Local Coverage Determination Clarification Act of 2017 (S. 794) has been introduced by Senators Isakson (R-GA), Carper (D-DE), Stabenow (D-MI) and Boozman (R-AR).

Medicare Misvalued Code Initiative

Provisions included in the ACA's misvalued code initiative reduce physician involvement in the valuation of physician services and the CAP requests that this physician input is not removed from the Medicare physician fee schedule relative value review process. Specifically, section 3134 (a)(k)(III) of the ACA granted the Secretary of Health and Human Services authority to hire independent contractors to conduct surveys and collect data to establish a process for CMS to unilaterally change the physician work and practice expense relative value units without any constraints. The use of independent contractors compromises the long successfully history of physician involvement in providing valuation and methodological recommendations to the Medicare program through the American Medical Association/Specialty Society Relative Value Update Committee (RUC).

The RUC has a credible, transparent mechanism that utilizes the expertise of the entire house of medicine to examine all of the details on the physician fee schedule components and is the most efficient physician-led expert panel process that has provided esteemed recommendations on relative values for physician services. Engaging contractors to create empirical models to value physician services also moves CMS away from the resource based methodology. The misvalued code initiative presents an aggressive costly regulatory burden on Medicare and all medical specialties thereby circumventing the established non-governmental RUC process. The CAP would like Congress to support physician participation to assure accurate relative values on the physician fee schedule and reduce the use of analytic contractors to value physician fee schedule services.



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Center for Medicare & Medicaid Innovation (CMMI)

Finally, the CAP is supportive of innovative health care payment and delivery models that are developed in a transparent fashion with the input of those specialties impacted by the models. However, we believe CMMI has exceeded their authority in developing, testing and implementing mandatory payment and delivery models without input of physician specialties impacted by these models. The CAP is further concerned that models are being submitted to the Physician Focused Payment Model Technical Advisory Committee (PTAC) and developed by CMMI that dramatically change to the clinical decision making of providers without the input of those specialties impacted by the model required. In any new payment and delivery model there is a need to maintain a balance between the cost and access to quality health care. Developers of models, CMMI, or submitters of model proposals to the PTAC, should be required to include physician societies impacted by their models and receive their input prior to recommending implementation and testing to ensure the best outcome for the patient.

We are grateful for the opportunity to share with you the perspective and experience from our members and their patients. The CAP stands ready to work with you and your colleagues to assess and examine any alternative health care plan proposals to understand its impact on patients and pathologists.

Sincerely,

Richard C. Friedberg, MD, PhD, FCAP
President, College of American Pathologists