

December 7, 2011

The Honorable Wayne Goodwin  
Insurance Commissioner  
North Carolina Department of Insurance  
1201 Mail Service Center  
Raleigh, NC 27699

Sent electronically to [wayne.goodwin@ncdoi.gov](mailto:wayne.goodwin@ncdoi.gov)

Commissioner Goodwin:

On October 25, the North Carolina Medical Society, the North Carolina Radiological Society, and the North Carolina Hospital Association filed a joint complaint with your Consumer Services Division concerning recent actions by BlueCross and BlueShield of North Carolina. The complaint involves a controversial Corporate Medical Policy that would, in some circumstances, unilaterally reduce reimbursement rates for CT, MRI, and ultrasound imaging procedures. **The undersigned organizations wish to express our collective support for the position outlined in the joint complaint.** We ask you to carefully review this issue and take necessary action to prevent this policy from being implemented as proposed.

The joint complaint is about whether health insurers should be required to honor the commitments that they make in contracts with providers. It is true that some physicians, practices, and facilities will be affected more than others by the specific BCBSNC policy involved here. However we know that if this policy takes effect, each of us will eventually be subjected to contract amendments that are disguised as health insurer policy changes. We are united in our concern over BCBSNC's effort here to avoid fair dealings with its provider partners, and its clear intention to continue using policies and procedures to escape the promises they have made in written, signed, valid contracts. This approach to managing health care and controlling costs is arbitrary, antiquated, and ineffective. Perhaps more importantly, as of 2010 such methods also violate state insurance laws. We look now to the Office of the Commissioner and the North Carolina Department of Insurance to require health insurers to follow the law.

The Department's decision is of great importance because of the precedent it will set. This dispute concerns new fair contracting protections that took effect in 2010. The pertinent parts of the law say (1) when a health insurer modifies fees paid to participating health care providers, the insurer must first propose a contract amendment through a formal process that allows for negotiation; and (2) insurers cannot implement policies and procedures that conflict with or seek to override terms that appear in the contract. The law, debated and passed during the 2009 Session of the North Carolina General Assembly as SB 877 and HB 1297, was intended to stop an abusive industry practice and to require insurers to honor the contracts they make with physician practices and facilities. By insisting on implementing this policy unilaterally, BCBSNC hopes to avoid these new requirements. We fear that if the Department does not act to block this policy, a new and important section of Chapter 58 will be rendered meaningless, and a harmful industry practice will continue.

We understand that at the Department's urging, BCBSNC has delayed implementation of the radiology reduction policy. We sincerely appreciate that action, and believe it was appropriate given the Department's ongoing review. It is worth noting that if BCBSNC had followed the

statutory process when they announced the policy last June, the company could have conceivably implemented this policy in August with far less controversy or regulatory involvement.

Thank you for your attention to this important issue. We remain confident in the Department's ability to enforce the provisions of Chapter 58 and to prevent insurance industry practices that harm health care providers and their patients.

Sincerely,

**North Carolina Obstetrical and Gynecological Society**

**North Carolina Orthopaedic Association**

**North Carolina Spine Society**

**North Carolina Academy of Family Physicians**

**North Carolina Medical Group Managers**

**North Carolina Psychiatric Association**

**North Carolina Chapter of the American College of Physicians**

**North Carolina College of Emergency Physicians**

**North Carolina Society of Anesthesiology**

**Carolinas Chapter of American Association of Clinical Endocrinologists**

**North Carolina Society of Eye Physicians and Surgeons**

**North Carolina Academy of Physicians Assistants**

**North Carolina Society of Gastroenterology**

**North Carolina Dermatology Association**

**North Carolina Oncology Association**

**North Carolina Chapter of the American College of Cardiology**

**North Carolina Pediatric Society**

cc: Bob Lisson, Deputy Commissioner, NCDOT Consumer Services Division