North Carolina Medical Society
Established 1849
Leadership in Medicine

December 9, 2009

The Honorable Richard Burr
United States Senate
217 Russell Senate Office Building
Washington, DC 20510

Dear Senator Burr:

The North Carolina Medical Society (NCMS), representing more than 11,500 physicians and physician assistants, commends the United States Senate for making health system reform a priority of the 111th Congress. The NCMS is for health system reform, but we cannot support passage of the Patient Protection and Affordable Care Act (HR 3590) in its present form.

The NCMS supports health system reform that will address access and workforce, quality and safety, patient education and informed choice, and financing and cost management. A copy of the NCMS Guiding Principles for National Health System Reform is attached. Our analysis of HR 3590 concludes that in its present form it would do more harm than good, and that it would not provide the efficient, effective and accountable health care system needed by our patients—insured, uninsured, elderly and poor.

The Senate proposal makes some great strides for our patients. Here are the provisions of HR 3590 that we support. We encourage you to keep them in the bill, or strengthen them if possible:

- Health insurance market reforms, including provisions relating to guaranteed issue, guaranteed renewability, modified community rating, pre-existing condition limitations, nondiscrimination based on health status, adequacy of provider networks, and transparency;
- Coverage for prevention and wellness initiatives without co-payments or deductibles;
- Administrative simplification, such as uniform, transparent operating rules for electronic transactions like eligibility verification, claims status, claims remittance/payment, and electronic funds transfers (EFT) within specified periods of time;
- Reduced overpayments to Medicare Advantage plans;
- Bonus payments and graduate medical education (GME) expansion for primary care, but not at the expense of Medicare or GME slot reductions for other specialties;
- Expanded access to primary care and increases in the rates for primary care services, but not financing these changes by reductions in rates for specialist services. Current Medicare rates for medical and surgical services are already below cost;
- Implementation of health homes for patients with chronic conditions. North Carolina's Community Care Program has been a leader in this area and has improved patient care and saved the federal and state governments hundreds of millions of dollars.

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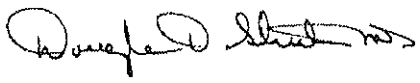
Other sections of HR 3590 are inadequate and would damage patient care. We encourage you to change these sections before passing the bill out of the Senate. Without these changes, we cannot support HR 3590. The needed changes include:

- Sustainability from a financial standpoint. In its present form, the bill is unsustainable and 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 makes the long-term costs appear deceptively low.
- Addition of a provision to establish a permanent replacement for Medicare's sustainable growth (SGR) formula. While we appreciate that HR 3590 would avert the 21-percent cut in Medicare physician payments in January, a permanent replacement of the SGR is essential to maintain access to care for seniors and patients with disabilities. Ultimately, what good is health system reform if our patients cannot find a physician? We need a rational Medicare physician payment system that automatically keeps up with the cost of running a practice and is backed by a stable funding source. We oppose any additional temporary patches to the SGR that only increase the size of future cuts and the cost of a permanent solution.
- Inclusion of incentives for states to enact meaningful tort reform that reduce defensive medicine costs and create savings that offset increased health insurance premiums. The Congressional Budget Office recently confirmed that enacting a comprehensive set of tort reforms will save the federal government $54 billion over 10 years. The bill should also be amended to include absolute protection from federal preemption of current, effective state liability reforms and elimination of any new causes of action against physicians or providers.
- Elimination of provisions that would create an Independent Medicare Advisory Board with the power to mandate payment cuts for physicians, who are already subject to many other potential Medicare payment reductions. As a cost-containment strategy, the IMAB is inadequate because it would not apply to hospitals or other extremely expensive providers for four years.
- Elimination of provisions that would redistribute Medicare payments among physicians and providers based on untested and arbitrary treatment standards that do not improve the quality of patient care (Value-Based Payment Modifier and other provisions).
- Elimination of penalties for physicians who do not successfully participate in the Physician Quality Reporting Initiative (PQRI). This program is fraught with administrative and technical difficulties that must be corrected before the PQRI is expanded. In addition, for many physicians, specialty societies have not yet developed measures that are relevant to their practice.
- Elimination of provisions that create an unintended incentive to pay a fine for not having required insurance coverage.
- Elimination of the 5-percent excise tax on elective cosmetic surgical and medical procedures. Such taxes have been proven to be unworkable in several states; they have not come close to reaching their revenue targets, and they have invaded patients' privacy.

- Elimination of enrollment fees for Medicare. The bill should also prohibit state or federal agencies from imposing provider enrollment fees for any federal program, especially in light of payment rates for physician services that are below cost.
- Continuation of supplemental federal medical assistance payments at 2009 levels for at least two more years, to ensure that access to care for Medicaid patients does not deteriorate any further. State financing of these programs is already beyond sustainable levels, and an economic recovery sufficient to increase state revenue and reduce Medicaid rolls before 2012 is far from certain.
- Addition of safeguards to the proposed demonstration projects to bundle payments for the provision of integrated care for Medicaid patients. There is tension between hospitals and physicians on many levels. Any program to bundle payments must include safeguards to ensure physicians have equal say in the distribution of available funds.
- Amending limitations on the participation of physician-owned hospitals in the Medicare and Medicaid programs. Such broad-stroke exclusions will stifle the development of efficient hospital service for Medicare and Medicaid patients.

Each of the points mentioned above reflects the basic desire of all physicians to ensure that the patient-physician relationship is free from outside influences, and to put patients' medical interests at the forefront. If health system reform facilitates this type of patient-physician relationship, we believe most physicians will support it. If not, it is essential that patients and physicians be permitted to structure their own relationships, free from outside influence that would detract from the patient's medical needs and interests. The North Carolina Medical Society pledges to work with you and Senators on both sides of the aisle to encourage bipartisan solutions to these problems in the current bill. We believe these changes will result in a health care delivery system that is better for our patients, and that will improve the health of our nation.

Sincerely,



Douglas D. Sheets, MD
President

Enclosure
cc: NCMS Board of Directors
NC Congressional Delegation
Robert W. Seligson
Executive Vice President, CEO

North Carolina Medical Society

NCMS GUIDING PRINCIPLES FOR NATIONAL HEALTH SYSTEM REFORM

Adopted by NCMS Board of Directors 5/17/09

Access and Workforce

- Promote portable and continuous health care coverage for all Americans using an affordable mix of public and private payer systems.
- Invest needed resources to expand the physician-led workforce to meet the health care needs of a growing and increasingly diverse and aging population.
- Recognize and support the role of safety net and public health systems in delivering essential health care services within our communities to include essential prevention and health promotion/public health services.
- Support the development of a well-funded, nationwide emergency and trauma care system that provides appropriate emergency and trauma care for all Americans.

Quality and Safety

- Promote patient safety as a priority for reform, recognizing an effective mix of initiatives that combine evidence-based accountability standards, committed financial resources and rewards for performance that encourage and ensure patient safety.
- Adopt physician-developed, evidence-based tools for use in scientifically valid quality/patient safety initiatives that encourage and reward the physician-led health care delivery team and include clinical comparative effectiveness research used only to help choose the best care for patients.
- Provide financial and technological support to implement physician-led, patient-centered medical homes and improved care coordination for all Americans.
- Incorporate physician-developed, evidence-based measures and preventive health and wellness initiatives into any new or expanded health benefit package as a means to promote a healthier citizenry.

- Support the implementation of an interoperable National Electronic Medical Records System, financed and implemented through federal funding, to ensure real-time data at the point of care to improve quality.

Patient Education and Informed Choice

- Preserve the integrity of the patient-physician relationship, and encourage patient and physician choice.
- Support public policy that fosters individual responsibility for one's health, and encourage maintaining a healthy lifestyle.
- Support policies that encourage patient participation and accountability in appropriate utilization of system resources.
- Support public policy that fosters ethical and effective end-of-life care decisions.

Financing and Cost Management

- Provide sustainable financing mechanisms that ensure an affordable mix of services and create responsibility among all stakeholders for financing and appropriate utilization of the system.
- Require accountability and transparency among health insurers to disclose how their premium dollars are spent, eliminate pre-existing condition exclusions, simplify administrative processes, and observe fair and competitive market practices.
- Reform the tort system to prevent non-meritorious lawsuits.
- Abolish the Medicare SGR annual update system and initiate a true cost of practice methodology that provides for annual updates in the Medicare Fee Schedule as determined by a credible, practice expense-based medical economic index.
- Require payers to have a standard, transparent contract with providers that cannot be sold or leased for any other payer purposes without the express, written consent of the contracted physician.
- Support efforts to make health care financing and delivery decision-making more of a professionally advised function, with appropriate standard setting, payment policy and delivery system decisions fashioned by physician-led deliberative bodies as authorized legislatively.