

AMERICAN ASSOCIATION OF
NEUROLOGICAL SURGEONS

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March 9, 2017

The Honorable Greg Walden
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Kevin Brady
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

SUBJECT: American Health Care Act

Dear Chairman Walden and Chairman Brady:

On behalf of the American Association of Neurological Surgeons (AANS) and Congress of Neurological Surgeons (CNS), we are writing to offer our comments on the "American Health Care Act" (AHCA) committee prints passed by your committees this week.

America's neurosurgeons strongly support improving our nation's health care system, including expanding access to affordable health insurance coverage for every American, enhancing patients' choice of insurance plans and providers, and maintaining reforms that redress a number of inexcusable insurance practices. While the Affordable Care Act's (ACA) insurance market reforms — such as coverage for pre-existing conditions and guaranteed issue — provide critical consumer protections, rather than lowering costs and expanding choice, premiums have skyrocketed, high deductibles leave patients financially on the hook for their medical bills and narrow networks restrict patient access to the physician of their choice. Thus, by many objective measures, the promises of the ACA have fallen short. Consider the following:

- 20 million more Americans have health insurance today, yet nearly 30 million continue to lack coverage.
- Insurance market reforms — such as coverage for pre-existing conditions and guaranteed issue — provide critical consumer protections. However, because not enough young or healthy people have purchased insurance, the individual and small group market is in a so-called "death spiral."
- Health insurance premiums remain very expensive for most, and annual double-digit increases are not uncommon. Additionally, consumers face significant out-of-pocket costs with annual deductibles of \$5,000 to \$10,000 in some cases.
- Keeping your preferred physician or insurance plan is not always possible, and insurance practices such as "narrow networks" further restrict choice and access.
- Insurance markets have become less competitive and 32 percent of counties now only have one insurer.

Of course, for individuals with preexisting conditions and health problems requiring ongoing care, the ACA has been a significant benefit. The same goes for Americans that have received financial assistance for insurance premiums and other cost-sharing subsidies.

It is with this in mind that we offer some comments on the health care reform efforts currently underway. We understand that because the AHCA is proceeding under the budget reconciliation process, many issues related to improving the ACA will not be included in this bill and will be addressed by the Trump Administration and additional legislation later in the year. We offer our comments in the spirit of working

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collaboratively with Congress and the Administration to find solutions that improve the nation's health care system.

American Health Care Act Reforms

Regarding topics included in the AHCA, we offer our observations on the following:

Health Insurance Market Reforms. The AANS and CNS support maintaining the health insurance market reforms that were included in the ACA. We are pleased that the AHCA:

- Bans coverage exclusions of pre-existing health condition;
- Eliminates lifetime limits on benefits and places restrictions on annual limits on benefits;
- Allows children to be covered on their parents' insurance policy up to age 26; and
- Requires guaranteed issue and guaranteed renewability of coverage.

We are concerned, however, that the "continuous coverage" provision of the AHCA may leave individuals vulnerable to hefty fines if they drop coverage and reenter the insurance market — although we do appreciate that there needs to be a mechanism to encourage individuals to obtain and maintain health insurance coverage to prevent adverse selection and the insurance death spiral.

Enhancing Choice and Flexibility. An important health care reform principle advocated by the AANS and CNS is the notion that patients should have enhanced choice and the flexibility to select the health plan that best meets their needs. As such, we have repeatedly expressed our concerns that, as implemented, the ACA hinders this flexibility. The AHCA takes a step in the right direction by allowing individuals to spend their health care dollars the way they want and need by enhancing and expanding Health Savings Accounts (HSAs) — nearly doubling the amount of money people can contribute and broadening how people can use it. To ensure that patients are educated consumers, it is essential that Congress and the Administration support efforts to improve cost transparency for medical services.

Refundable Tax Credits. The AANS and CNS support advanceable, refundable tax credits to help individuals obtain health insurance coverage. Rather than allocate these credits based on an individual's age, however, we believe it makes more sense to distribute the tax credits based on income and financial need. It is also important that the amount of the credits are sufficient for individuals to purchase health insurance. We are, therefore, concerned that the AHCA's tax credit structure may lead to gaps in affordable coverage for many Americans and look forward to the findings of the Congressional Budget Office (CBO) on this point. If appropriately structured, however, the AANS and CNS believe that advanceable tax credits will help incentivize more individuals to purchase health insurance and provide them with the flexibility to obtain coverage that best meets their needs.

Health Insurance Coverage through Medicaid Expansion. Over the years, the AANS and CNS have expressed concerns about the shortcomings of the Medicaid program. In many instances, individuals covered by Medicaid may have an insurance card, but find it difficult to get access to care because many providers are not able to accept Medicaid due to reimbursement rates that are far below medical practice costs. For these and other reasons, we did not support the ACA's Medicaid expansion as an effective mechanism for increasing American's access to health care. Nevertheless, Medicaid is an important safety net program for patients with low incomes, and we do not want to see these individuals lose coverage as a result of the proposed changes to the Medicaid expansion program. Additionally, while we firmly support providing the states with more flexibility to develop health care programs that best meet the needs of their citizens, we urge Congress to ensure that any changes to Medicaid financing do not undermine these state-based efforts.

Medical Device Excise Tax. America has a long tradition of excellence and innovation in patient care, and neurosurgeons have been on the cutting edge of these advancements. However, American medical innovation is at serious risk. While temporarily suspended for two years from 2016-17, the ACA's

medical device excise tax is adversely affecting medical innovation and patient care. The AANS and CNS, therefore, support the inclusion of a provision in the AHCA to repeal this tax permanently.

Additional Health Care Reforms

Again, the AANS and CNS understand that the procedural rules for budget reconciliation do not allow all issues to be addressed by the AHCA. However, the task of health reform will not be complete unless Congress and the Administration also address some additional critical elements that are missing from this bill and not dealt with by the ACA. These include:

Children's Health Insurance. To ensure that our nation's children have uninterrupted health insurance coverage, Congress should reauthorize the Children's Health Insurance Program (CHIP) — for two to five years — before it expires later this year.

Ensuring Network Adequacy. Patients face access to care barriers due to narrow health plan networks. Many times, unknown to patients, entire specialties are excluded from health plans or the number and mix of specialists and subspecialists are not adequate to meet the needs of the insured population. Networks should be sufficiently robust to ensure that an appropriate number of specialists and subspecialists per enrollee are available. Additionally, network directories should be updated in real-time and provide patients with clear, concise and accurate information. Finally, decisions to remove a physician from the network without cause should not be made in the middle of a contract year. Congress and the Administration should ensure appropriate oversight to hold insurers accountable and to ensure that patients have timely access to the right care, in the right setting, by the most appropriate health care provider.

Timely Access to Care. Health insurers are increasingly using prior authorization as a cost-control process that requires providers to obtain approval before rendering medical services. According to a recent survey, every week a medical practice completes an average of 37 prior authorization requirements per physician, which takes a physician and their staff an average of 16 hours, or the equivalent of two business days, to process. While the AANS and CNS understand the need to hold down health care costs, the inefficiency and lack of transparency associated with prior authorization costs physician practices both time and money. More importantly, however, are the delays in patient care that result from prior authorization programs, which can lead to poor health care outcomes. We believe that prior authorization is overused and should be reassessed. One of the goals of health care reform is to ensure that patients have timely access to the care they need when they need it, and Congress and the Administration should take the necessary steps to eliminate inappropriate prior authorization requirements.

Medical Liability Reform. The AANS and CNS support legislation to provide common sense, proven comprehensive medical liability reform. Federal legislation modeled after the laws in California or Texas, which includes reasonable limits on non-economic damages, represents the "gold standard," and the CBO has determined that comprehensive medical liability reform would save the federal government approximately \$65 billion over 10 years. Other solutions should be adopted including: (1) applying the Federal Tort Claims Act to services mandated by the Emergency Medical Treatment and Labor Act (EMTALA); (2) liability protections for physicians who volunteer their services; and (3) liability protections for practitioners who follow practice guidelines established by their specialties.

Independent Payment Advisory Board (IPAB). Created by the ACA, the IPAB is a 15-member government board — whose members are appointed by the president — with little or no clinical expertise or the oversight required to protect access to care for our country's seniors. It has only one job: to cut billions of dollars from Medicare. Even worse, if no board is appointed, which is the situation right now, the Secretary of Health and Human Services has the sole authority to make these decisions. Proposed spending cuts automatically go into effect if Congress does not replace the recommendations with cuts of equal magnitude. Congress only has a very short time in which to pass its substitute proposal — making it a virtual certainty that the board's recommendations would be adopted. The AANS and CNS strongly

urge repeal of the IPAB because leaving Medicare payment decisions in the hands of an unelected, unaccountable governmental body with minimal congressional oversight will negatively affect timely access to quality neurosurgical care for our nation's senior citizens and those with disabilities.

Graduate Medical Education. An appropriate supply of well-educated and trained physicians — both in specialty and primary care — is essential to ensure access to quality health care services for all Americans. Unfortunately, the nation is facing an acute shortage of physicians, due to an aging population and the expansion of health insurance coverage through the ACA. And while medical schools in the U.S. have increased their enrollments, and additional medical and osteopathic schools have been established, the number of Medicare-funded resident positions has been capped by law at 1996 levels. To ensure an adequate supply of physicians and allow the graduate medical education system to operate optimally, policymakers should, among other things:

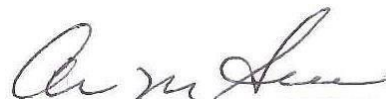
- (1) Eliminate the current graduate medical education (GME) funding caps and increase the number of funded residency positions;
- (2) Expand funding to fully cover the entire length of training required for initial board certification;
- (3) channel a larger percentage of GME funds directly to the academic departments responsible for resident education;
- (4) Maintain current financial support for children's hospital GME;
- (5) Encourage all other payers to contribute to GME programs;
- (6) allow residents to bill for the services they render after achieving verified competence in particular skills;
- (7) Provide additional funding to investigate innovative approaches to modernized GME;
- (8) Supply the profession with the tools, including antitrust relief, to ensure a well-trained physician workforce;
- (9) Preserve the ability of surgeons to maximize education and training opportunities by performing overlapping surgical procedures and allowing for more flexible resident duty hours; and
- (10) Reject additional unnecessary layers of regulations and ensure that the Accreditation Council for Graduate Medical Education (ACGME), American Board of Medical Specialties (ABMS) and Association of American Medical Colleges (AAMC) retain their preeminent roles in overseeing resident training and education.

Thank you for considering our views. We look forward to continuing to work with you to improve our country's health care system for the benefit of our patients and appreciate your willingness to make improvements in the bill as it goes through the legislative process. If you have any questions or need additional information, please don't hesitate to contact us.

Sincerely,



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American Association of Neurological Surgeons



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Congress of Neurological Surgeons

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