



April 11, 2008

The Honorable Max Baucus  
United States Senate  
511 Hart Senate Office Building  
Washington, DC 20510

Dear Senator Baucus:

On behalf of America's hospitals, we urge the Senate to protect patient access to the broad array of services community hospitals provide and ensure fair competition in the health care marketplace. Specifically, we strongly support efforts to include in the conference report for the Farm Bill currently under negotiation, or any other legislative vehicle the Congress may consider this year, a ban on self-referral to physician-owned hospitals.

Over the last year, the House of Representatives has twice passed a ban on physician self-referral to hospitals in which a physician has an ownership interest: in August 2007, the CHAMP Act (H.R. 3162, Section 651) and more recently in March 2008 in the Paul Wellstone Mental Health and Addiction Parity Act of 2008 (H.R. 1424, Section 106). Both bills accommodate those physicians who already have ownership of, or investments in, hospitals to which they refer—H.R.1424 more so than H.R. 3162. H.R.1424 grandfathered self-referral under financial arrangements for facilities participating in the Medicare program on the date of enactment and allows for some continued growth.

The Medicare Payment Advisory Commission (MedPAC), the Government Accountability Office (GAO), and the Centers for Medicare & Medicaid Services (CMS) all have found that physician-owned specialty hospitals treat healthier patients with the same diagnosis, and MedPAC and GAO further found that these physician-owned hospitals treat far fewer Medicaid patients. The net result of these behaviors is that the more costly, complex, uninsured, underinsured and indigent patients are left to be treated at the competing full-service community hospital. Our mission—the mission of full-service community hospitals across the country—is to serve all the health care needs of all citizens in our communities, and not discriminate based on insurance status.

There is also empirical evidence that the entry of physician-owned specialty hospitals into a market is associated with a significant increase in utilization of certain health care services. Relying in part on evidence generated by MedPAC and others, the Congressional Budget Office (CBO) has found that banning this type of physician self-referral would reduce Medicare spending by \$2.35 billion over 10 years. While CBO did

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not project it, we suspect there likely would be a significant effect on private sector spending as well.

In addition, some in Congress have expressed concern about patient safety and quality of care in these facilities, recently highlighted by reports of patient deaths that occurred in physician-owned hospitals. Physicians were not present and the staff on duty called 9-1-1 because they apparently were not equipped to handle the emergent health care needs of their patients who experienced complications from the procedures performed on them. In January 2008, the Department of Health and Human Services' Office of Inspector General (OIG) issued a report regarding the ability of physician-owned specialty hospitals to manage Medicare emergencies. Among other findings, the OIG found that "two-thirds of physician-owned specialty hospitals use 9-1-1 as part of their emergency response procedures" and "almost a quarter of all physician-owned specialty hospitals have policies that do not address appraisal of emergencies, initial treatment of emergencies, or referral and transfer of patients." We believe communities expect more from their hospitals.

We must make every effort to ensure fair competition in health care and to protect the Medicare program, the seniors it serves, and the health care networks in communities across the country against the negative effects of physician self-referral to hospitals in which the physician has an ownership interest.

We appreciate your leadership and ongoing commitment to our nation's community hospitals. We look forward to working with you on this critically important issue.

Sincerely,

American Hospital Association  
The Federation of American Hospitals  
Coalition of Full Service Community Hospitals