

June 6, 2016

Dear Member of Congress:

We, the undersigned organizations, wish to express opposition to H.R. 5273, “The Helping Hospitals Improve Patient Care Act of 2016.” H.R. 5273 picks winners and losers in the health care marketplace by providing legislative relief for every category of hospital currently subject to a Medicare moratorium except hospitals with physician ownership. Physician-owned hospitals are subject to a strict moratorium on expansion, preventing them from increasing access to high-quality, lower cost care for Medicare and Medicaid patients.

Specifically, H.R. 5273, which passed on a voice vote out of the Ways and Means Committee, provides relief for 3 out of 4 types of hospitals subject to a Medicare moratorium:

1. Hospital Outpatient Departments that were under development (site-neutral payment cuts)
2. Cancer hospitals (site neutral payment cuts)
3. Long-term acute care hospitals (expansion moratorium)
4. ~~Physician-owned hospitals (expansion moratorium)~~

The Affordable Care Act (ACA) included a controversial provision that strictly prohibits physician-owned hospitals — widely and consistently recognized as some of the highest quality, lowest cost providers in the country — from participating in the Medicare program. Physician-owned hospitals that were under development or under construction were subsequently forced to halt their work because of a punitive, arbitrary grandfathering date that accompanied the ban. This resulted in the loss of millions of dollars in private investment by physicians and other financiers. Specifically, the ACA:

- Halted more than 30 major expansion projects at existing physician owned hospitals.
- Prevented more than 40 hospital projects from opening with physician ownership because they were not certified by Medicare before the law’s deadline.
- Forced sponsors to abandon at least 40 other physician owned hospital projects, even after significant financial investments were made.

The ACA also penalizes physician-owned hospitals that were already participating in Medicare by prohibiting them from adding a single bed, operating room or procedure room unless they meet a complicated and unrealistic set of criteria as part of the application process. As a result of these restrictions, only 7 of the nearly 250 physician-owned hospitals will ever be eligible to expand under the current criteria for “applicable hospital” or “high Medicaid facility”.

The inability of physician-owned hospitals to meet their community’s fast-growing demand for high-quality health care services is bad for patients, in particular those on Medicare and

Medicaid. Current law is forcing these low-cost centers of excellence to consider forfeiting their Medicare license in order to add desperately needed capacity and remain accessible to patients in the community.

Ironically, the ACA created three new programs aimed at aligning payment with quality. Physician-owned hospitals have been higher performers in all of them. Beginning in FY 2013, CMS established the Value-Based Purchasing (VBP) program to award and penalize hospitals across the country for quality of care. Medicare payments to the more than 3,500 participating hospitals are increased or reduced based upon performance in measured domains for care quality, including patient experience, outcomes, process of care and efficiency. POHs consistently outperform their non-POH competition in the VBP program. In FY 2016, seven (7) of the top ten (10) hospitals in the program were POHs. 79% of POHs received a bonus payment adjustment, compared to only 58% of non-POHs.

On October 1, 2012, CMS also began reducing payments to hospitals participating in the Readmissions Reduction (RR) program for excessive readmissions of patients to a hospital within 30 days of a discharge. As in the VBP program, POHs consistently outperform their non-POH counterparts. In FY 2016, 55% of POHs received no penalty for readmissions, compared to only 18% of non-POHs.

In 2015, CMS began issuing summary star ratings on a quarterly basis for hospitals' patient satisfaction scores. The star ratings allow patients to compare performance between nearly 3,500 Medicare-certified hospitals on a wide array of metrics evaluated in the Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS) survey, including communication with nurses and doctors, pain management, staff responsiveness, care transition, hospital cleanliness and quietness, etc. In each of the reported quarters thus far, POHs have displayed unparalleled patient satisfaction through their consistently high star ratings.

In recognition of the need for increased access to higher performing hospitals, Congressman Sam Johnson (R-TX) and a bi-partisan group of co-sponsors from across the country proposed legislation, H.R. 2513, that would allow grandfathered physician-owned hospitals to have an opportunity to expand (subject to the current limitations of the ACA) if they demonstrate consistent, high quality care over a 3-year period as measured by the hospital star ratings program. This is a reasonable proposal that should have been included in H.R. 5273 since it is specifically aimed at helping hospitals improve care by providing relief from applicable Medicare moratoria.

We urge Congress to put patients first and reconsider H.R. 5273 as currently drafted because it helps every other hospital subject to a Medicare moratorium except those with physician ownership. As these are among the most cost-effective and efficient providers of high quality health care in the country, we look forward to working with you to ensure H.R. 5273 provides physician-owned hospitals with the ability to grow and compete like every other type of

hospital. Local communities need a more level playing field that enables physician-owned hospitals to meet growing demand for high quality, lower cost patient care.

Sincerely,

**American Association of Orthopedic Surgeons  
American Association of Neurological Surgeons  
American Society of General Surgeons  
Congress of Neurological Surgeons  
Ortho Forum  
Physician Hospitals of America  
Rothman Institute**