



September 18, 2009

The Honorable Max Baucus
Chairman
Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, DC 20510-6200

RE: NP Roundtable Comments on the Chairman's Mark of the *America's Healthy Future Act of 2009*

Dear Chairman Baucus,

The NP Roundtable, a collaboration of the American Academy of Nurse Practitioners, the American College of Nurse Practitioners, the National Association of Pediatric Nurse Practitioners, and the National Organization of Nurse Practitioner Faculties, thank you, your staff, and all the members of the Senate Finance Committee for the tireless attention and effort you have given to health care reform and will continue to give in the days and weeks ahead. Our members know first-hand the cost, access and quality challenges facing the United States through our experience with individual patients who struggle with our complex delivery and payment systems. Interacting with the health system can be daunting to even the most sophisticated patient.

We reviewed the Chairman's Mark of the *America's Healthy Future Act of 2009* with great anticipation and found much to applaud and support. Our key goals are to bolster the primary care workforce and to ensure that nurse practitioners are included in all measures aimed at increasing access to care so that the 125,000 nurse practitioners in this country can be full contributors to helping to solve the primary care shortage. To this end, we have identified some specific changes or clarifications to the Chairman's Mark provision that we believe are necessary in order to move us closer to these goals.

P. 12 Interstate of Insurance

We are concerned that insurance compacts or national plans will give insurance companies unthwarted power to discriminate against classes of providers. We urge you to include language in the legislative text to protect NPs and other providers from such actions. Legislative text that has been used in the past includes:

A health insurance issuer to which this Act (amendment) applies shall not discriminate with respect to participation, reimbursement, covered services or indemnification under a health plan or other health insurance coverage against any health care provider who is acting within the scope of that provider's license or certification under applicable State law.

P. 17-18 Subtitle C. Benefit Options

The introductory paragraph to the definition of the four benefit categories sets forth the requirement that all plans provide, among other things, primary care services and physician services. There is no mention of nurse practitioners services. Experience informs us that without some specific mention of nurse practitioners as primary care providers, some plans will interpret the phrase “physicians services” as not including services provided by nurse practitioners to their plan enrollees. We suggest adding the following parenthetical after the phrase “physician services” to clarify that the term is meant to encompass the provision of these same services when provided by NPs. For example, the last paragraph on page 17 would read:

All plans must provide preventative . . . physician services (including services rendered by nurse practitioners according to state law), outpatient services. . .

And the first full paragraph on page 18 would read:

Each plan design for products in the state exchange would be required to apply parity. . . (3) physician services (including services rendered by nurse practitioners according to state law).
...

P. 60 Medicaid Bundled Payments Demonstration Projects

As noted above, we are concerned that the term “physician services” could be read to not include identical services rendered by NPs. Since nurse practitioners provide the “physician services” contemplated by the demonstration project, we ask that the legislation make clear that NP services are included in the demonstration project. We believe it is important that the demonstration data encompass a sampling of all providers treating Medicaid patients.

P. 63 American Indian and Alaska Native Providers and Medicare Part B (under current law).

We note that under current law NPs provide services under each of these programs, but the discussion of current law did not include NPs among the long list of health practitioners serving these patients. We recognize that this likely is a meaningless oversight, but we make note of it only to ensure that any new legislative language does not inadvertently omit NPs.

P. 74 Title II Medicaid State Plan Option Promoting Health Homes and Integrated Care

The language in this section includes NPs until the sentence “[t]eams of providers. . . physician’s offices, or physician group practice.” To be sure that there is no question that NP-lead health homes will be included in the Medicaid demonstration project, we ask that bill language clearly state so. This could be accomplished by changing the language above to read “physician or nurse practitioner office or group practice.”

P. 79 Physician Quality Reporting Initiative

Nurse practitioners are included by statute in the current PQRI program, and should also be part of any new quality initiatives. While the description of the new quality program contemplated by the Chairman's Mark uses the general terminology of "eligible professionals," which could include NPs, the second qualifying criterion to be an eligible provider could discriminate against NPs as it is accessible only to physicians. Thus, we would ask that the phrase "or equivalent program for other professionals" be added to both criterion to ensure that NPs have the opportunity to participate. Thus, the criteria would read:

The Secretary shall allow eligible. . . professionals to qualify if they: (1) participate in a qualified American Board of Medical Specialties certification, known as Maintenance of Certification (MOC), or equivalent program for other professionals, and (2) complete a qualified MOC practice assessment or equivalent program for other professionals.

P. 80 Expansion of Physician Feedback Program

Nurse practitioners should be included in the feedback program. It is important to gather data on all the professionals providing the same services to understand the various opportunities in the system to save money and improve care.

P. 89 Accountable Care Organizations

We thank you for specifically identifying NPs in the discussion about ACOs. To avoid any ambiguity in legislative language that could lead to NPs and our patients not being able to participate in ACOs, we ask that the fourth and fifth criteria in the list of qualifications (that appear in the third full paragraph) be amended to replace the term "primary care physician" with either the term "primary care provider" or "primary care practitioner."

P. 95 Bundling National Pilot Program on Bundling Services

As with the Medicaid bundling project, we want to ensure NPs are part of any Medicare bundling projects. Only physician services are listed both inside and outside the hospital. Since nurse practitioners provide the "physician services" contemplated by the demonstration project, we ask that the legislation make clear that NP services should be included in the demonstration project. We believe it is important that the demonstration data encompass a sampling of all providers treating Medicare beneficiaries

P. 101 Part IV Strengthening Primary Care and Other Workforce Improvements; Primary Care/General Surgery Bonus

Paragraph 2 has advanced practice nurses and physician assistants in parentheses after pediatric medicine. We are concerned that the placement of the parenthetical could be interpreted to refer only to pediatric medicine. We assume that this was not the intention in the drafting, and that the actual legislative language is clear. We raise this only for your information.

P. 116 Medicare Diabetes Self-Management Training

As noted in the discussion of current law, NPs currently prescribe diabetes self-management training. Yet, the section describing the inclusion of CDEs only mentions physician referrals. We understand that the legislative language may already make clear that other “qualified non-physician practitioners” also may make referrals for CDE services, but we wanted to note this inconsistency to avoid confusion later.

P. 131 Limitation on Removal or Change of Coverage of Covered Part D Drugs Under a Formulary Under a Prescription Drug Plan or a MA-PD

As prescribers of drugs, NPs also need notice of removal of a covered drug from a formulary or any change in the preferred tier cost sharing status of such a drug. We hope the legislative language will make clear that all authorized prescribers are to receive such notifications.

P. 135-136 Bonus Payments

The services of all primary care providers should count towards an MA plan’s achieving its bonus payment or a bias against certain providers will be created. Thus, we would ask that bullet #5 read “primary care provider,” rather than “primary care physician.”

P. 159 Patient-Centered Outcomes Research

The Board of Governors for the proposed Patient-Centered Outcomes Research Institute should include a broader representation of clinical provider groups and not just physicians. A spectrum of health care professionals are responsible for the clinical outcomes of patients and a range of expertise is necessary to identify opportunities for measuring and improving patient outcomes.

P. 190 Conditions of Participation and Coverage

To avoid confusion in the future implementation of the requirement for a face-to-face visit prior to ordering DME, we ask that it be made clear that these program changes would apply all eligible prescribers of DME, which includes NPs.

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Lastly, it is unclear whether the bill will include language authorizing NPs to certify a Medicare beneficiaries eligibility for home health services. Requiring a separate evaluation and management service by a physician in order to authorize such services is redundant and adds unnecessary expense to the program. Such a clarification ultimately reduces cost, rather than increase it because NPs are going to ensure that patients in need of the services are certified for them whether they order the services or refer the patient to a physician to order the services. Certainly, this ask is consistent with the principles of health care reform and we would hope that the necessary clarification could be made in the *America's Healthy Future Act of 2009*. Helpful language may be found in Senate Bill 1678 that was introduced in the 110th Congress.

On behalf of the NP Roundtable, we thank you for your attention to these comments. If you have any questions regarding the points we have made, please feel free to contact any one of the individuals noted below.

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cc: All members of the Senate Finance Committee