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January 7, 2010

The Honorable Harry Reid
Majority Leader of the Senate
Washington, D.C. 20510

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Senator Reid and Speaker Pelosi:

On behalf of the American Psychiatric Association (APA), the medical specialty representing more than 38,000 psychiatric physicians nationwide, I would like to submit for your consideration our comments on the House and Senate health reform legislative proposals. We recognize the challenges of developing a comprehensive health reform plan and appreciate the effort exerted throughout the current debate and negotiations process to secure enactment of this essential legislation.

Last September, the Board of Trustees of the APA voted to support H.R. 3200, America's Affordable Health Choices Act, as the legislative high water mark basis for health reform. As you know, the House ultimately passed H.R. 3962, the Affordable Health Care for America Act, and H.R. 3961, the Medicare Physician Payment Reform Act. In concert with a permanent solution to the Medicare payment crisis such as that embodied by H.R. 3961, the APA continues to support H.R. 3962.

Key Positive Features

While H.R. 3962 is – like any bill – not perfect, we recognize that it offers many positive benefits for psychiatrists and other physicians, and most importantly for our patients. These include:

- Requiring a basic benefit package for all qualified health benefit plans in the Health Insurance Exchange. Of particular note, mental health and substance-use disorder treatment is included within the basic benefit package, and this coverage requirement would be extended to all health insurance plans within five years.
- Blocking insurance discrimination based on individuals' health status and pre-existing conditions.
- Requiring a public health insurance option in the Health Insurance Exchange with voluntary physician participation.
- Establishing meaningful requirements for employers and individuals to obtain qualified health insurance coverage.

- Extending the physician fee schedule mental health add-on as enacted in the Medicare Improvements for Patients and Providers Act of 2008.
- Preserving recent advances in parity for mental health and substance-use disorder treatment.
- Authorizing a postpartum depression and postpartum psychosis grant program and awareness campaign.
- Authorizing a program for Medicaid to receive federal matching for Institutions for Mental Diseases.

We are acutely aware of the extraordinary balancing act required to pass health reform in the Senate, and commend Senator Reid for his efforts to include important elements of a number of the House-passed provisions in H.R. 3590, the Patient Protection and Affordable Care Act, as passed by the Senate. We urge their full retention in any final health reform package. In addition to the important initiatives noted above, we respectfully request the following provisions from the Senate package be retained in the final bill:

- Authorizing grants to establish national centers of excellence for the treatment of depressive and bipolar disorders.
- Authorizing a grant program to implement the co-location of primary and psychiatric care in community based settings.
- Including individuals with a serious mental illness in the health home model.

Issues of Concern

Recognizing the challenges you face in negotiating a final agreement, we bring to your attention the following areas of deep concern to APA members across the country:

Medicare Physician Payment: The APA urges inclusion of Medicare payment reform as a central part of any health reform package. In November, the House voted in favor of H.R. 3961, the Medicare Physician Payment Reform Act, to bring to an end the destructive cycle of debt caused by the fatally flawed Sustainable Growth Rate (SGR) formula. By replacing the SGR driven payment formula, the Medicare Physician Payment Reform Act would ensure fair and sustainable payment for Medicare physicians and continued access to a broad range of needed services for Medicare beneficiaries. H.R. 3961 eliminates the SGR debt by resetting the volume baseline at 2009 levels, wiping away the $240 billion that is "owed back" by Medicare physicians and other health professionals. After resetting the baseline, the Medicare Physician Payment Reform Act would implement a new two-target system of volume-based payments for physician services, allowing for growth at two percent above gross domestic product (GDP) for primary and preventive services, and one percent above GDP for all other services. In addition, H.R. 3961 provides a transitional update for 2010 based on the cost of care, thereby avoiding the catastrophic 21.2 percent cut now scheduled for March 1. Failure to permanently fix the SGR clearly undermines patient access to treatment and must be fully solved rather than temporarily avoided.

The Elimination of Consultation Codes: In its FY 2010 physician fee schedule, the Centers for Medicare and Medicaid Services (CMS) proposed the elimination of all inpatient and outpatient consultation codes. While characterized as an administrative proposal, this represents a fundamental shift in policy that would drastically affect the practice of medicine, particularly for cognitive specialties such as psychiatry. While CMS plans to increase the work relative value units for new and established office visits, this will not adequately reflect the time and skill required for consultation services for patients with severe illnesses requiring complex treatment, who are often the patients for whom a consultation is requested. The APA urges your support for a proposed amendment by Senator Arlen Specter to delay for one year the proposed elimination of consultation codes in order to allow CMS to establish replacement codes in consultation with the American Medical Association's Comprehensive Procedural Terminology (CPT) Committee.

Expanded Graduate Medical Education for Psychiatrists & Other Physicians: We applaud provisions included in the House and Senate bills designed to support an adequate physician workforce to meet the needs of a growing, aging and increasingly diverse population. The health of our nation relies on timely and accurate diagnosis and treatment of mental illnesses. Unfortunately, we suffer a nationwide shortage of psychiatric physicians to adequately meet the needs of our population. Medicare's support for residency training is crucial to ensuring that our institutions can respond to community needs. The House- and Senate-passed bills preserve current GME funding and rely on redistribution of unused slots to add only a few hundred physicians a year to the current pipeline. We urge further expansion of Medicare-funded graduate medical education to support primary care as well as under-represented specialties like psychiatry that serve primary healthcare needs. Promoting the practice of psychiatry, particularly child and adolescent psychiatry and geriatric psychiatry, is necessary to meet the current and future needs of our population.

Linking Changes in Payment to Increases in Health Coverage: The House and Senate health reform proposals modify existing Medicare and Medicaid payment policies to adjust for anticipated increases in health insurance coverage. If there is a lack of coordination between the changes in payment policy and the full implementation of insurance coverage requirements, the potential for premature reductions in payment could profoundly impact access to care and continuity of care through institutional providers as well as health care professionals. For example, formula-driven reductions in Disproportionate Share Hospital (DSH) payments in advance of the anticipated reduction in uncompensated care for the indigent and uninsured would further weaken our current hospital infrastructure. We urge the careful coordination of payment policy changes with successful implementation of health insurance coverage requirements.

Public Reporting on Performance Information: A provision included in the Senate-passed bill would authorize the Secretary of Health and Human Services to make Medicare physician performance measures of quality of care and patient experience available to the general public. The APA strongly supports improved quality of care and patient-centered treatment and has published an extensive series of practice guidelines toward these ends. We are, however, concerned about the extent to which standardized data given adequately captures the diverse needs of patients and episodes of care related to their treatment. Consideration should be given to the fact that patients with serious mental and/or physical ailments may have impaired cognitive ability to provide accurate and meaningful feedback on their care.

It should also be recognized that even when the best possible medical care is given, patients may have quite different perceptions, and it is unclear how such differences will be resolved before data is released to the general public. Given the potential damage to physicians' careers, the APA strongly urges including an appeals process as providers are able to review performance results. The voluntary quality reporting program now in place has highlighted technical problems such as the long gaps that occur when participating physicians report and they are notified that the reporting was not successful. The Senate bill – but not the House bill – includes penalties for physicians who fail to successfully file a report. Penalizing physicians who are unaware that reports have failed is counterproductive and unreasonable.

Independent Medicare Advisory Board: The APA is deeply concerned about the Independent Medicare Advisory Board (IMAB) established in the Senate legislation. Since hospitals and other health-related entities have been exempted from cuts for the first four years, Medicare savings will be levied entirely on physicians and other health practitioners who are already subject to a spending target under the physician payment formula that is itself fatally flawed. We also are concerned that proposals set forth by IMAB will go into effect without adequate and timely review by Congress.

Stupak Amendment: Since the 1970s, the APA has opposed constitutional amendments, legislation and regulations that interfere with a woman's right to choose. We are opposed to the amendment offered by Rep. Bart Stupak and included in the House-passed health reform bill, and we hope that Congress will pass final health reform legislation more in keeping with the health care needs of America's women and their families. We would be happy to offer scientific evidence and/or testimony if you think it would be useful at any point in this process.

On behalf of the members of the American Psychiatric Association and their patients, I applaud your leadership in crafting meaningful solutions to our nation's health insurance crisis. We stand ready to be of assistance as health reform progresses. Thank you again for your leadership as we work to provide health care access for all Americans.

Sincerely,

Alan F. Schatzberg, M.D.
President

CC: Senator Richard J. Durbin, Majority Whip
Senator Max Baucus, Chair of the Finance Committee
Senator Tom Harkin, Chair of the HELP Committee
Senator Christopher J. Dodd

CC: Rep. Steny H. Hoyer, Majority Leader
Rep. Charles B. Rangel, Chair of the Ways and Means Committee
Rep. Henry A. Waxman, Chair of the Energy and Commerce Committee
Rep. George Miller, Chair of the Education and Labor Committee