

September 23, 2009

The Honorable Max Baucus  
Chairman, Senate Finance Committee  
215 Dirksen Senate Office Building  
Washington, DC 20510

Dear Senator Baucus:

The 20 undersigned surgical organizations, representing over 200,000 members, are united in our goal of bringing into focus the urgent issues facing access to quality surgical care for our patients. Our members are committed to helping policymakers craft workable solutions that address access problems while preserving and improving high-quality surgical care for all.

As we have previously communicated with you, our organizations have outlined a series of positions which we believe are imperative for true health care reform. There are several amendments that have been offered on which we would like to provide input given their impact on our previously communicated positions.

**MEDICARE PHYSICIAN PAYMENTS.** The surgical community has held that in order for health reform to be successful that the Medicare payment system must be permanently reformed. *To support this position, the surgical community **SUPPORTS** Amendment #157 (Ensign/Bunning D12: Ensuring Medicare Beneficiary Access to Health Care Professionals).*

**BUDGET NEUTRAL PAYMENT BONUSES FOR PRIMARY CARE & GENERAL SURGERY.** The surgical community has consistently opposed cutting surgical reimbursement to finance increased payments for other physicians. *To support this position, the surgical community **SUPPORTS** Amendment #127 (Kyl D4: eliminate budget neutrality).*

**MEDICAL LIABILITY REFORMS.** The surgical community has urged the committee to address this critical issue as an important tool for helping to stem the tide of rising health care costs by including common sense, proven, comprehensive medical liability reform provisions such as: (1) provisions modeled after the laws in California or Texas, which include reasonable limits on non-economic damages; (2) alternatives to civil litigation, such as health courts and early disclosure and compensation offers; (3) protections for physicians who follow established evidence-based practice guidelines; and (4) protections for physicians volunteering services in a disaster or local or national emergency situation. *The surgical community believes that much more is necessary to address these issues than a "Sense of the Senate" provision as provided in Amendment #105 (Carper D4). To support our position, the surgical community **SUPPORTS** Amendment #106 (Carper D5: demo on "safe harbor"), Amendment #118 (Hatch D8: cap on non-economic damages), Amendment #146 (Ensign D1: Health Care Safety Net Enhancement Act), Amendment #147 (Ensign D2: Disaster Volunteer Health Care Professional Protection Amendment), Amendment #148 (Ensign D3: Medical Care Access Protection Act), Amendment #149 (Ensign D4: Increased FMAP for Medical Liability Reform), Amendment #158 (Enzi D1: Fair and Reliable Medical Justice Reform), Amendment #159 (Enzi D2: Incentives for states to enact medical justice reform), Amendment #172 (Cornyn D13: Limiting Non-Economic Damages in Medical Liability Lawsuits), Amendment #175 (Cornyn D16: Encouraging Amicable Settlement of Medical*

*Liability Suits*), Amendment #176 (Cornyn D17: Encouraging Compliance with the Institute's Recommendations (Safe Harbors)), Amendment #177 (Cornyn D18: Limiting Punitive Damages), Amendment #178 (Cornyn D19: Protecting Doctors from Frivolous Lawsuits), and Amendment #179 (Cornyn (D20: Protecting Doctors from Excessive Damage Awards).

**MEDICARE COMMISSION.** The surgical community remains opposed to taking Medicare payment policy decisions out of Congress and replacing the transparency of Congressional hearings and debates with a minimally open process overseen by unelected officials with little accountability for the health care decisions it makes – except reducing costs. *To support this position, the surgical community **SUPPORTS** Amendment #116 (Hatch D6: strike Medicare Commission), Amendment #130 (Kyl D7: strike Medicare Commission), and Amendment #139 (Roberts D3: eliminate the Medicare Commission) and **OPPOSES** Amendment #10 (Rockefeller D10: Medicare Commission), Amendment #18 (Conrad D6: Ensuring Long-Term Health Savings) and the pay-for in Amendment #97 (Nelson D10: Medicare Advantage Enrollee Benefit Stability).*

**PHYSICIAN QUALITY REPORTING INITIATIVE (PQRI).** The surgical community strongly opposes making participation in the PQRI mandatory in 2011. We also oppose making the program punitive at such an early date for those physicians who do not successfully participate. *To support this position, the surgical community **OPPOSES** Amendment #86 as incorporated into the chairman's mark with modification (Cantwell D1: incentivize value in the Medicare Fee-For-Service Physician Payment Formula).*

**MISVALUED CODES UNDER THE PHYSICIAN FEE SCHEDULE.** The surgical community opposes the creation of a duplicative process for determining code values as included in the bill. *To support this position, the surgical community **SUPPORTS** Amendment #138 (Roberts D2: eliminate the shadow RUC).*

**PHYSICIAN OWNED HOSPITALS.** The surgical community believes that physician owned hospitals are an important component of our health care delivery system and Congress should not prohibit their development and further expansion. *To support this position, the surgical community **SUPPORTS** Amendment #85 (Stabenow D20: to ensure viability of certain hospitals), Amendment #170 (Cornyn D11: strike the limitation on Medicare Exception to the Prohibition on Certain Physician Referrals for Hospitals), and Amendment #171 (Cornyn D12: extends grandfather date on Medicare Exception to the Prohibition on Certain Physician Referrals for Hospitals).*

**PHYSICIAN PAYMENT SUNSHINE.** The surgical community strongly supports disclosure and transparency of physician and industry relationships through a single, federal reporting system that preempts state law. *To support this position, the surgical community **SUPPORTS** Amendment #111 (Hatch D1: federal pre-emption for physician payment disclosure).*

**IMPROVING QUALITY MEASUREMENT.** The surgical community believes that cost should not trump quality and Congress should carefully consider the implications for measuring efficiency. In addition, we recognize the value of public reporting, but urges Congress to carefully consider the unintended consequences associated with releasing individual

physician data to the public. *To support these positions, the surgical community **SUPPORTS** Amendment #125 (Kyl D2: eliminating feedback penalty) and Amendment #137 (Roberts D1: eliminates the feedback penalty).*

In addition, the surgical community **OPPOSES** Amendment #520 (Snowe F8: Sense of the Senate that budget points of order should not be waived).

Our organizations share your goals of expanding coverage and promoting better access to high quality care and we are committed to working constructively with you and your Senate colleagues to achieve true health care reform. The comprehensive list of surgical health care reform priorities are attached to this letter. It is our hope that as reform legislation is considered by the Finance Committee and ultimately by the full Senate, that measures are approved, which address these critical issues.

Sincerely,

American Academy of Facial Plastic and Reconstructive Surgery  
American Academy of Ophthalmology  
American Academy of Otolaryngology-Head and Neck Surgery  
American Association of Neurological Surgeons  
American Association of Orthopaedic Surgeons  
American College of Obstetricians and Gynecologists  
American College of Osteopathic Surgeons  
American College of Surgeons  
American Osteopathic Academy of Orthopedics  
American Society of Breast Surgeons  
American Society of Cataract and Refractive Surgery  
American Society of Colon and Rectal Surgeons  
American Society for Metabolic & Bariatric Surgery  
American Society of Plastic Surgeons  
American Urological Association  
Congress of Neurological Surgeons  
Society for Vascular Surgery  
Society of American Gastrointestinal and Endoscopic Surgeons  
Society of Gynecologic Oncologists  
Society of Surgical Oncology