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Dear Representative:

On behalf of the American Hospital Association (AHA) and our nearly 5,000 member hospitals, health systems and other health care organizations, and our 37,000 individual members, I am writing in support of the health information technology (HIT) and privacy provisions in H.R. 598, The Economic Recovery and Reinvestment Act: Health Information Technology for Economic and Clinical Health Act, or the HITECH Act. We recognize and appreciate that you have committed significant financial resources to the development of HIT.

Adoption of a nationwide HIT system offers great promise – for patients, for those who deliver care, and for society as a whole. HIT can promote patient safety, limit errors, and improve care. It can also improve efficiency and costs, and enhance patient satisfaction. Hospitals have been pioneers in harnessing IT to improve patient care, quality and efficiency; the challenge now is to extend its use and integrate it into routine care processes in all health care settings.

The HITECH Act takes up this challenge by requiring the federal government to develop the technical standards necessary for an interoperable HIT system by a date certain, and by providing meaningful and significant financial incentives – through Medicare and Medicaid, and supplemented by loans and grants – for hospitals and doctors to move to the new technologies.

The bill also codifies the Office of the National Coordinator for Health Information Technology (ONCHIT), recognizing the importance of a single point of high-level coordination and leadership among several agencies. Coordination of technology policy, standards, and programs is critical; by creating the HIT Policy Committee and HIT Standards Committee, the National Coordinator will have access to prioritized, complementary guidance that not only reflects the expertise of a broad base of stakeholders throughout health care, but also aligns with and enables the nationwide strategic plan. Moreover, by empowering the Secretary to monitor the effectiveness of the market's ability to provide the technologies required to achieve the strategic plan, and



by providing, as an alternative, a low-cost, certified electronic health record system, you will assure providers that oversight is in place. This will have the effect of creating additional transparency while supporting the existing market process.

We applaud the decision to provide significant Medicare and Medicaid incentives to hospitals that are meaningful users of HIT. The move to an interoperable HIT system will be an expensive one for the nation's health care providers, and that looming cost has slowed adoption. The credit crunch has increased the costs of borrowing needed funds, making it more difficult for hospitals to find the money for necessary facility and technology improvements. HIT is critical to creating the health care system of tomorrow, and robust federal financing can help make this a reality. We are concerned, however, that these payments would not be made available to hospitals with fewer than 25 beds, a large group of hospitals including, but not limited to, Critical Access Hospitals. These small facilities are essential to their communities and often struggle financially. The costs of acquiring HIT hardware and implementing and maintaining these new systems may be beyond their reach, even with the targeted grants and loans provided in the bill.

The AHA is pleased that the HITECH Act does not contain a provision requiring prior written consent before hospitals would be allowed to use patient records for their essential health care operations, including quality assurance activities, training of doctors and other health care professionals, fraud and abuse compliance, and accreditation and licensing activities. Hospitals must be able to use patient data to maintain high standards of quality and patient safety; reports generated and conclusions drawn from data analyses would be invalid if they were performed on incomplete sets of patient records. We thank you for acknowledging the importance of these activities.

Another area of concern is the accounting for disclosures provision. We support requiring the adoption of standards and mandating regulations to help hospitals know what they are required to report. The effective date for hospitals already using an electronic system will give them time to modify their systems based on these standards and regulations. But those hospitals not using an electronic system by January 1, 2009, could be required to comply with this provision even before the standards and regulations are available. We ask that the effective date for these institutions be January 1, 2013, or their date of adoption, whichever is later.

In the area of enforcement, we are concerned that you have included language authorizing state attorneys general to enforce HIPAA privacy violations. Over time, multiple state enforcement activities taken against a national standard such as HIPAA can lead to inconsistent results and, potentially, confusion among patients, possibly undermining consumer confidence that the privacy protection system is working.

With many payers not covering the actual costs of the care delivered to their enrollees or contributing to the capital improvements necessary to maintain facilities, hospitals increasing rely on philanthropy to bridge the gaps in funding and use very limited patient information to target their fundraising activities appropriately. Requiring a separate

Page 3
January 22, 2009

authorization for fundraising would have a significantly adverse impact on hospital philanthropy, and would make it harder for these institutions to thrive.

We applaud your commitment to helping hospitals with the costs involved in adopting HIT, and appreciate your attention to the concerns we have raised. We support this important legislation and look forward to working with you as this bill moves forward, to ensure that it encourages the adoption and use of HIT while also protecting patients' privacy and helping hospitals deliver timely, high quality care.

Sincerely,

Rick Pollack
Executive Vice President