

April 6, 2011

Dear Representative:

On behalf of The Federation of American Hospitals (FAH), the American Hospital Association (AHA), and the Coalition of Full Service Community Hospitals, we write to you today to strongly oppose two recently introduced bills to repeal the current prospective ban on self-referrals to physician-owned hospitals. H.R. 1159 and H.R. 1186 were introduced on March 17, 2011 and would each have a negative impact on local community hospitals.

To be clear, community hospitals embrace fair competition where facilities compete over quality, price and patient satisfaction. However, we are strongly opposed to self-referral which skews the marketplace in favor of physician owners who self-refer the healthiest and wealthiest patients to their own facilities.

Under most laws and regulations in our health care system, physician self-referral is banned, but physician owners were using an exception, known commonly as the "whole hospital" exception, to get around these conflict of interest rules. The issue of self-referral to physician-owned hospitals, and the inherent conflict of interest it presents, has been a concern to policymakers **for over a decade**. These arrangements, and their impact on health care consumers and taxpayer spending, have been the subject of numerous bipartisan congressional hearings and analyses by independent and government researchers. **In fact, the issue was first addressed by a statutory moratorium passed by Republican majorities, and enacted by President Bush, first in the Medicare Modernization Act of 2003 and then in the Deficit Reduction Act of 2005.**

Last year, Congress passed a permanent but prospective ban on self-referral to physician-owned hospitals, providing grandfathered status for those existing hospitals with physician ownership or investment and a Medicare provider agreement in place as of December 31, 2010. **Current law represents a compromise which protects current physician ownership of hospital arrangements and allows these arrangements to grow where needed.**

There is conclusive evidence that physician-owner referrals result in more higher-margin patients being treated at the facility in which they have an ownership interest, compared to the payer mix at other hospitals in the same area. Additionally, according to the Congressional Budget Office (CBO), Medicare Payment Advisory Commission (MedPAC) and independent researchers, **self-referral was resulting in higher per person utilization of services ("index events") and higher costs for the Medicare program** at a time when rising health care costs is an issue of critical importance. The Government Accountability Office (GAO), Centers for Medicare & Medicaid Services (CMS) and MedPAC all have found that physician-owned specialty hospitals were treating healthier patients with the same diagnosis, and MedPAC and GAO further found that these physician-owned hospitals were treating far fewer Medicaid patients. The net result of these behaviors was that the more costly, complex, uninsured, underinsured and indigent patients were left to be treated at the competing full-service community hospital. This has been especially damaging to full-service community hospitals, creating a destabilizing environment that

threatens the foundation of community hospitals and their ability to continue to serve the needs of the community.

Furthermore, the Department of Health and Human Services Office of the Inspector General had issued a report regarding the ability of physician-owned specialty hospitals to manage medical emergencies finding, in part, that “[t]wo-thirds of physician-owned specialty hospitals use 9-1-1 as part of their emergency response procedures,” and “[m]ost notably, 34 percent of [specialty] hospitals use 9-1-1 to obtain medical assistance to stabilize patients, a practice that may violate Medicare requirements.”

The data gathered over the last decade clearly showed that self-referral was creating an unlevel, anti-competitive playing field, and threatened patient safety, as well as the health care safety net provided by full-service community hospitals.

As opponents of this long-debated provision are seeking to repeal or amend this important public health policy, we need you to stand with your community hospital. Conflict of interest is inherent in these arrangements and to once again allow for their proliferation would prove to be a giant step backwards for both consumers and taxpayers. For these reasons, we are asking for your strong opposition to these new House bills.

Sincerely,

Federation of American Hospitals
American Hospital Association
Coalition of Full Service Community Hospitals