

December 18, 2020

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Mitch McConnell
Majority Leader
U.S. Senate
Washington, DC 20510

The Honorable Kevin McCarthy
Republican Leader
U.S. House of Representatives
Washington, DC 20515

The Honorable Chuck Schumer
Democratic Leader
U.S. Senate
Washington, DC 20510

Dear Speaker Pelosi and Leaders McConnell, McCarthy, and Schumer:

On behalf of our nearly 5,000 member hospitals, health systems and other health care organizations, our clinician partners – including more than 270,000 affiliated physicians, 2 million nurses and other caregivers – and the 43,000 health care leaders who belong to our professional membership groups, the American Hospital Association (AHA) asks that you not include in any end-of-the year legislative package provisions that would impact private contract negotiations between providers – including hospitals and physicians – and health insurance plans. Now is not the time to undercut providers when they are on the front lines of serving their communities during the COVID-19 pandemic.

We understand that there could be legislative proposals under consideration similar to ones passed by the Senate Committee on Health, Education, Labor and Pensions (HELP) as part of S.1895, the Lower Health Care Costs Act (section 302), and that were also included in Section 202 of the surprise medical billing agreement reached between the Senate HELP and the House Energy and Commerce committees in December 2019. If passed into law, these provisions would disallow contract terms between providers (both facilities and professionals) and health plans that:

- Restrict health plans from directly or indirectly steering patients to particular providers; and
- Require health plans to contract with all of a health system's providers.



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The Congressional Budget Office has estimated that these provisions would save the federal government \$2.7 billion over 10 years by limiting access to providers.

We have repeatedly raised concerns about these provisions on behalf of our members and the patients they serve. The provisions could undermine value-based care by enabling health plans to negotiate favorable terms under such arrangements only to undermine providers' performance by then steering patients elsewhere for care. Plans also would be able to cherry-pick certain providers within a system to avoid covering certain communities. We are particularly worried that plans would choose not to contract with rural providers in a system, further reducing health care coverage options and access to care in these communities. Contracting with only some providers in a system also would hurt care coordination as patients would not fully benefit from the integration systems have established across their providers. In addition, these provisions could eliminate access to certain services for enrollees in those plans, as systems generally do not duplicate services at all sites of care.

We appreciate your attention to this important matter, and we ask that Congress not include these problematic provisions in year-end legislation.

Sincerely,

/s/

Thomas P. Nickels
Executive Vice President