

August 13, 2009

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

The Honorable Louise Slaughter
Chairwoman
House Rules Committee
Washington, DC 20515

The Honorable George Miller
Chairman
House Education and Labor Committee
Washington, DC 20515

The Honorable John Kline
Ranking Member
House Education and Labor Committee
Washington, DC 20515

The Honorable Charles Rangel
Chairman
House Ways and Means Committee
Washington, DC 20515

The Honorable Dave Camp
Ranking Member
House Ways and Means Committee
Washington, DC 20515

The Honorable Henry Waxman
Chairman
House Energy & Commerce Committee
Washington, DC 20515

The Honorable Joe Barton
Ranking Member
House Energy and Commerce
Washington, DC 20515

Dear Members of Congress:

The organizations indicated below representing consumers, industry and physicians are requesting that amendments regarding the comparative effectiveness (CE) provisions (Section 1401) to the America's Affordable Health Choices Act of 2009 (HR 3200) passed during the recent Energy and Commerce Committee's mark-up not be included in the joint Tri-Committee healthcare reform bill that is ultimately voted on in the House of Representatives.

Our organizations applaud all three Committees of jurisdiction in the House for including provisions within HR 3200 for the establishment of a trusted, transparent, well-funded Center for Comparative Effectiveness Research "to conduct, support, and synthesize research with respect to the outcomes, effectiveness, and appropriateness of health care services and procedures in order to identify the manner in which diseases, disorders, and other health conditions can most effectively and appropriately be prevented, diagnosed, treated, and managed clinically." CE research allows patients and their personal physicians to make effective, informed decisions regarding their care—decisions that best reflect their needs, circumstances and preferences. Furthermore, this information allows all healthcare payers (patients, employers, health plans) the information needed to obtain the most value from their healthcare purchases.

We are concerned about the passage of the following three amendments to HR 3200 approved during the Energy and Commerce Committee mark-up:

- An amendment offered by Rep. Michael Rogers (R-Mich.) to clarify that comparative effectiveness research could not be used by the federal government to deny or ration care.
- An amendment sponsored by Rep. Phil Gingrey, MD (R-Ga.), stating that the Centers for Medicare and Medicaid Services may not use federally-funded clinical comparative effectiveness research data to make Medicare coverage determinations on the basis of cost.
- An amendment authored by Rep. Tim Murphy (R-Pa) specifying that the work performed by the Center for Comparative Effectiveness must be based on consultation with, and review by, appropriate trade associations and professional membership societies.

Our concern with the first two bulleted amendments is that a strict interpretation of the language could unduly hamper Medicare and other federal healthcare programs from using the CE information to obtain value within the system and to promote the thoughtful use of healthcare resources. While our organizations clearly do not support government rationing of services or federal programs basing decisions solely on costs, we do expect these federal programs to establish procedures to promote the delivery of the most effective services at the best value. These programs need to be informed by research from a respected source so as to develop necessary protections to ensure that each patient receives the treatment they medically require, and to discourage, if necessary, the use of non-beneficial and even harmful services as revealed by CE research. Since CE research provides the very information needed to establish these value procedures, we believe the language in these amendments could obstruct their implementation.

Our concern with the last bulleted amendment focuses on its highlighting the requirement that the Center's work must be based on consultation with, and review by, appropriate trade associations and professional membership societies. These trade associations and professional membership societies have strong fiduciary obligations to promote the interests of their members, and there are certainly past instances where such groups have had difficulty acknowledging otherwise compelling comparative effectiveness research findings in conflict with the interests of their members. We believe the structure and processes outlined in the original, unamended version of the legislation provides appropriate and adequate opportunity for these groups, to both be aware of the work of the Center through its required transparent processes, and to inform the work of the Center through required opportunities for all stakeholders to review and provide public comment on the methods and findings of such research. Thus, no public benefit is served by affording these trade and professional groups special or preferential status over the many individual and group stakeholders in the important work of developing the best evidence possible to inform clinicians and patients.

Our organizations urge you not to include the above amendments in the merged version of HR 3200 that will be voted on in the House. They minimize the potential of the proposed CE entity to promote the delivery of the most effective and efficient care to our Medicare beneficiaries. Please contact Neil Kirschner with the American College of Physicians at nkirschner@acponline.org or 202 261-4535 if you have any questions regarding this letter.

American Academy of Family Physicians
American Hospice Foundation
American College of Physicians
Center for Medical Consumers
Childbirth Connection
Consumers Union
National Business Coalition on Health
National Business Group on Health
National Partnership for Woman and Families
Pacific Business Group on Health
Society of General Internal Medicine