May 21, 2008

Dear Senator:

On behalf of the more than 5,000 hospitals represented by the associations co-signing this letter, we urge you strongly to support the provision in the Iraq Supplemental Appropriations bill that prospectively prohibits self-referral by physicians to hospitals they own or in which they invest. A ban on this type of physician self-referral addresses an inherent conflict of interest for the physician-owners, protects patient access to the broad array of services community hospitals provide, and ensures fair competition in the health care marketplace.

Over the past year, the House of Representatives twice passed a ban on physician self-referral to hospitals in which a physician has an ownership interest: in August 2007 in the CHAMP Act (H.R. 3162, Section 651) and, more recently, in March 2008 in the Paul Wellstone Mental Health and Addiction Parity Act of 2008 (H.R. 1424, Section 106). Both bills accommodate this type of self-referral related to certain existing physician-owned hospitals. The provision in the Iraq Supplemental legislation goes even further by protecting additional physician-owned hospitals currently furnishing services.

Our mission—the mission of full- service community hospitals across the country—is to serve all the health care needs of all citizens in our communities. The Medicare Payment Advisory Commission (MedPAC), the Government Accountability Office (GAO), and the Centers for Medicare & Medicaid Services (CMS) all have found that physician-owned specialty hospitals treat healthier patients with the same diagnosis, and MedPAC and GAO further found that these physician-owned hospitals treat far fewer Medicaid patients. The net result of these behaviors is that the more costly, complex, uninsured, underinsured and indigent patients are left to be treated at the competing full-service community hospital.

There is also empirical evidence that the entry of physician-owned specialty hospitals into a market is associated with a significant increase in utilization of certain health care services. Relying in part on evidence generated by MedPAC and others, the Congressional Budget Office (CBO), in its score of the most recent language, has found that banning this type of physician self-referral would reduce Medicare spending by $1.3 billion over 10 years. While CBO did not project it, we suspect there likely would be a significant effect on private-sector spending as well.

Some in Congress have expressed concern about patient safety and quality of care in these facilities, particularly when confronted with the emergency health care needs of their patients, who might experience complications from the procedures performed on them. In January 2008, the Department of Health and Human Services' Office of Inspector General (OIG) issued a report regarding the ability of physician-owned specialty hospitals to manage Medicare emergencies. Among other findings, the OIG found that "two-thirds of physician-owned specialty hospitals use 9-1-1 as part of their emergency response procedures" and "almost a quarter of all physician-owned specialty hospitals have policies that do not address appraisal of emergencies, initial treatment of emergencies, or referral and transfer of patients." We believe communities expect more from their hospitals.

We must make every effort to ensure fair competition in health care, and to protect the Medicare program, the seniors it serves, and the health care networks in communities across the country against the negative effects of physician self-referral to hospitals in which the physician has an ownership interest.

We look forward to working with you on this critically important issue.

Sincerely,

American Hospital Association
Association of American Medical Colleges
Catholic Health Association of the United States
Federation of American Hospitals
National Association of Children's Hospitals
National Association of Public Hospitals and Health Systems
Premier, Inc.
VHA Inc.