June 5, 2019

The Honorable Lamar Alexander
Chairman
Committee on Health, Education, Labor, and Pensions
U.S. Senate
Washington, D.C. 20510

The Honorable Patty Murray
Ranking Member
Committee on Health, Education, Labor, and Pensions
U.S. Senate
Washington, D.C. 20510

Dear Chairman Alexander and Ranking Member Murray:

As the nation’s oldest and largest dental professional organization, representing more than 163,000 members, the American Dental Association (ADA) welcomes the opportunity to provide comment on your discussion draft legislation, the Lower Health Care Costs Act. The ADA appreciates your commitment to this important issue, especially your focus on improving transparency in health care.

When discussing transparency, we would like to draw your attention to S. 350, the Competitive Health Insurance Reform Act. While not under the jurisdiction of the Senate Health, Education, Labor, and Pensions (HELP) Committee, the bill would empower the Federal Trade Commission and the Department of Justice to enforce the full range of federal antitrust laws against health insurance companies that are engaged in anticompetitive conduct. When health insurance companies are permitted to disregard antitrust principles, prices for patients can go up, coverage can decrease, and reimbursement rates do not always keep up with costs.

The ADA has long been a leader on advocating for repeal of the McCarran-Ferguson Act’s antitrust exemption for health insurance companies and would hope that this legislative language could be part of any health care reform that is passed by the Senate.

Additionally, we provide the following comments on the draft legislation:

Title I
The ADA asks the Committee to explicitly exclude private dental offices in Section 2729A(c)’s definition of a “health care facility.” The Lower Health Care Costs Act expands the definition of health care facility to “any other facility that provides services that are covered under a group health plan or health insurance coverage,” which could include dental offices and which goes beyond the scope of this bill’s focus on emergency services.
One particular dental specialty, oral and maxillofacial surgeons (OMSs), are an integral part of hospital systems and ambulatory surgical centers and perform complex procedures at hospitals, provide emergency department coverage, and are members of trauma teams. The ADA and the American Association of Oral and Maxillofacial Surgeons (AAOMS) support the draft legislation’s efforts to prohibit patients from being billed beyond the in-network rate when provided emergency care by out-of-network providers at in-network hospital and ambulatory surgical facilities when adequate consent is not given.

**Title III**
The ADA is concerned about Section 302’s provision that prevents anti-steering clauses in contracts between providers and health plans. The ADA strongly believes that patients should be able to use the services of any licensed dentist of their choice. Patients should have the freedom to pick their dentist and all legally qualified dentists should be eligible to provide that care.

The ADA supports all-payer claims databases that include dental claim information. These databases can be helpful tools for evaluating health care costs and reimbursements. However, the ADA is concerned that the Lower Health Care Costs Act would designate an entity to run a database that would only include medical and pharmacy claims, not dental. Additionally, this database would duplicate efforts by providing data to state databases at a cost. Nearly 30 states have developed or are in the process of developing these databases. A federal grant program to incentivize the remaining states to complete the database development process would be more efficient than a new entity.

We also believe in the importance of timely and accurate updating of provider directories as this reduces confusion for beneficiaries and lets them know where they can access care under their plan. However, we are concerned about the proposal in Section 304 that would not apply cost-sharing beyond that of in-network care if the enrollee provides documentation that they received incorrect information from the insurer about the provider’s network status. Additionally, the bill would require the provider to reimburse the enrollee the full amount plus interest paid by the enrollee in excess of the cost-sharing amount. This penalizes providers for the failure by plans to update their directories in an accurate and timely manner.

The ADA also thinks that the requirement that health care facilities and providers send all bills to patients within 30 business days or the patient is not required to pay is too onerous of a burden on dentists. Often, dentists will not know what the final cost to a patient will be until after the insurance company has reviewed and paid the claim, which can take more than 30 days. Additionally, lost mail or other delays could unfairly penalize dentists for factors beyond their control.

**Title IV**
Section 401 would authorize a national campaign to increase awareness about the safety and public health benefits of vaccines. It is designed to combat the resurgence of smallpox,
measles, and other preventable diseases over unfounded fears that vaccines are more dangerous than the diseases they were designed to prevent.

The ADA has long been concerned about the spread of misinformation based on weak or misinterpreted evidence and an abundance of misinformation on the Internet. We see this all the time in discussions about the safety of vaccines, community water fluoridation, and amalgam restorations. It is an unfortunate consequence of the age in which we live.

With respect to vaccines, we are particularly concerned about the recent surge—in one case up to a 225 percent increase—in human papillomavirus virus (HPV)-related oropharyngeal cancer. Increasing the number of adolescents who receive recommended doses of the HPV vaccine would help reverse that trend. Alleviating misplaced fears about vaccines would be a positive step in that direction.

Section 403 would establish a federal guide on evidence-based obesity prevention and control strategies for State and local health departments, and Indian tribes and tribal organizations.

Eating patterns and food choices play an important role in preventing overweight and obesity, as well as maintaining good oral health. From a dental perspective, a steady diet of sugary foods and beverages—including all-natural fruit juices and artificially sweetened sports drinks—can damage teeth. A lack of certain nutrients can also make it difficult for tissues in the mouth to resist infection.

The ADA supports the findings of a 2015 World Health Organization systematic review finding a moderate degree of consistent evidence about whether dental caries rates fluctuate based on the volume of added sugar(s) consumed. We would like to see additional research in this area. In the meantime, we support the World Health Organization’s recommendation to limit added sugar(s) to a maximum of 10 percent of total daily caloric intake.

We applaud your efforts to provide resources for obesity prevention across the country. We hope oral health will play a role in your efforts.

Title V
The ADA supports Section 503 of the draft bill, which would request a Government Accountability Office (GAO) study on the existing gaps in privacy and security protections for patients using apps that are not covered by HIPAA privacy and security rules. These apps can help improve health and wellness, but it is also important to understand the possible risks to privacy and security.

We would also encourage the Committee to look at additional instances where patients may be subject to surprise bills such as those resulting from carriers not honoring benefit payments after services were submitted through the prior authorization process.
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Thank you again for your work on the Lower Health Care Costs Act. The ADA looks forward to continuing to work closely with the HELP Committee. Should you have any questions, please do not hesitate to contact Ms. Natalie Hales at (202) 898-2404 and halesn@ada.org or Ms. Megan Mortimer at (202) 898-2402 and mortimerm@ada.org.

Sincerely,

President

Kathleen T. O’Loughlin, D.M.D., M.P.H.
Executive Director

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