

June 10, 2024

VIA ELECTRONIC SUBMISSION

The Honorable Ron Wyden  
Chairman  
Committee on Finance  
United States Senate  
219 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Mike Crapo  
Ranking Member  
Committee on Finance  
United States Senate  
219 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chairman Wyden and Ranking Member Crapo:

The American College of Osteopathic Family Physicians (ACOFP) appreciates the opportunity to respond to the Senate Committee on Finance's white paper entitled, *Bolstering Chronic Care through Physician Payment: Current Challenges and Policy Options in Medicare Part B*. ACOFP is the professional organization representing more than 26,000 practicing osteopathic family physicians, residents, and students throughout the U.S. who are committed to advancing our nation's health care system by improving health care delivery and outcomes and ensuring that patients have access to high-quality care. We applaud the Committee's leadership in identifying the financial and regulatory burdens that jeopardize physicians' ability to own and operate health care practices and meet patient needs. However, we urge the Committee to take steps to:

- Address payment update adequacy and sustainability;
- Address concerns regarding budget neutrality in the Medicare Physician Fee Schedule (PFS);
- Rethink Merit-based Incentive Payment System (MIPS) and Alternative Payment Models (APMs);
- Reduce physician reporting burden and incentivizing participation in APMs & MIPS; and
- Ensure beneficiaries' continued access to telehealth.

We look forward to working with the Committee to address these crucial changes to improve access to care for beneficiaries.

***Addressing Payment Update Adequacy and Sustainability***

*As an alternative to the current-law updates, how should the conversion factor (CF) be updated to provide greater certainty for clinicians moving forward, including in light of inflationary dynamics?*

ACOFP urges the Committee to ensure that the CF include an annual inflationary update. The lack of such an update is adversely impacting osteopathic family physicians. Many of ACOFP's members practice in independent solo and small family medicine private practices, but their numbers have declined in recent years. More and more of these practices are being acquired by larger practices, private equity, and hospitals because of their inability to compete financially with these organizations. Other practices are closing altogether. ACOFP believes it is essential that policymakers support private practices—especially solo and small family medicine practices in rural and underserved

areas—which can tailor how they provide care to best meet the needs of the communities they serve, including patients who are chronically ill, and remain a critical access point for primary care. In many areas, family physicians are the primary source of care, and even before the COVID-19 pandemic, solo and small independent practices faced barriers, including physician shortages, low reimbursement, and overly burdensome regulations. Congress can play a role in reducing downstream healthcare costs and improving outcomes for their patients, including the chronically ill by ensuring that osteopathic family physician practices are financially viable. Otherwise, the availability of these services for beneficiaries will be insufficient, which will adversely impact outcomes and overall health status as well as ultimately increase health care costs.

Osteopathic family physicians face an increasingly challenging environment providing Medicare beneficiaries with access to care. Our physician members are essential to the nation's public health system and play a critical role in providing care to Medicare beneficiaries. Despite osteopathic family physicians' contributions to patient care and public health, they have been forced to contend with Medicare payments that do not cover the cost of providing care. The failure of the PFS to keep pace with the increasing cost of providing care has created an unstable financial environment for osteopathic family physicians. Reductions in the CF could have a serious financial impact on the ability of osteopathic family physicians to continue practicing and ensuring access to care for patients, especially patients who have more serious medical conditions, including chronic conditions. ACOFP is also concerned about relative value units (RVUs), which we believe do not accurately capture the time and resources spent on Medicare beneficiaries for purposes of determining physician reimbursement.

Physicians need financial stability. Many of our members are small-business owners who provide care in independent solo and small practices and have been struggling to remain open because they lack the resources that large physician groups or hospitals have to comply with continually increasing administrative burdens, pay staff competitive wages and increasing overhead costs, and purchase essential technology. The consequences of independent practices closing are severe because once a primary care physician office closes in a community, it is very difficult to attract new physicians to serve that community.

ACOFP urges Congress to pass legislation to support stable Medicare reimbursement so physicians can provide much needed care to beneficiaries. Specifically, ACOFP supports the *Strengthening Medicare for Patients and Providers Act* (H.R. 2474), which would address the rising costs of operating medical practices by providing an annual inflation-based update to the PFS tied to the Medicare Economic Index (MEI). Providing an inflationary update to the PFS would help physicians address the rising costs of operating an independent medical practice. We urge the Committee to consider this legislation.

A related issue that ACOFP would like to address in addition to adequate Medicare reimbursement is administrative burden. Administrative burden, including cumbersome electronic health record (EHR) systems, utilization management policies (e.g., prior authorization), and continuously changing regulatory rules, are forcing physicians to spend more time on administrative tasks rather than spending time with patients. Physicians spend even more time on these burdensome tasks after hours. These burdensome paperwork requirements are also contributing to the physician shortage and are inhibiting appropriate patient care. Many physicians, burned out by paperwork requirements, retire early or leave medical practice for another profession, especially those in independent solo and small practices where they do not have the resources to manage all these paperwork requirements. As more of these practices are forced to close or relocate, healthcare shortages increase, and more communities lose access to care. ACOFP supports legislation to reduce burdensome paperwork requirements across federal programs to allow physicians to spend more time treating patient. We

also urge Congress to consider requiring EHR interoperability and standardizing reporting requirements to reduce time spent on EHRs.

### ***Addressing Concerns regarding Budget Neutrality in the PFS***

*Should the Committee consider additional parameters to align the statute's budget neutrality provisions with the goal of maintaining fiscal integrity, as well as to avert or mitigate substantial payment fluctuations and volatility resulting from regulatory policy changes?*

The statutory requirements that require the Centers for Medicare & Medicaid Services (CMS) to make budget neutrality adjustments for policy updates that result in outlay changes exceeding a statutory threshold of \$20 million in a calendar year is outdated. The statutory threshold has not been updated in decades. The budget neutrality adjustment harms physicians and patients given its role in across-the-board payment reductions for all physicians. ACOFP urges Congress to increase the threshold to reduce the harm impacting physicians. These cuts that are triggered by budget neutrality requirements must be avoided in order to ensure that patients continue to have access to care. Without such statutory changes, and in light of the lack of inflationary update within the PFS, Medicare physician payment will lag further behind the actual cost to deliver care. This will cause osteopathic family physicians to close their practices or retire, creating serious access issues for beneficiaries. We urge the Committee to make changes to ensure stable Medicare reimbursement for physicians.

While we recognize that fully removing the budget neutrality requirements within the PFS could result in increased Medicare spending, we believe this outweighs physicians closing their practices or no longer accepting Medicare, which would have serious consequences for access to care and also impact the overall cost of care. ACOFP believes that Congress can create a balance that includes changes to the budget neutrality adjustment, without fully removing it. Making updates to account for the changes in costs that have occurred since it was first enacted would ensure that physicians are being reimbursed sufficiently for the care they provide their patients without completely altering the PFS.

### ***Rethinking MIPS and APMs***

In general, we believe that the Quality Payment Program (QPP) is in need of reform to ensure its intent of promoting value-based care is actually carried out. This is especially critical for family physicians—many of whom are in independent solo and small practices and have been burdened by its implementation. The *Medicare Access and CHIP Reauthorization Act of 2015* (MACRA) established the QPP, which consists of the Merit-based Incentive Payment System (MIPS) and Alternative Payment Models (APMs). ACOFP believes that these programs should incentivize primary care, which has been shown to improve overall health outcomes of patients and reduce healthcare costs. Many studies show dramatic benefits in geographic areas that have higher primary care provider use and primary care providers per capita.<sup>1</sup> A retrospective literature review by Dr. Barbara Starfield found that overall health is better in areas in the United States with more primary care providers.<sup>2</sup> Areas with higher ratios of primary care providers per capita had better health outcomes, including lower rates of all-cause mortality, mortality from heart disease, cancer and stroke, as well as infant mortality.<sup>3</sup> In addition, areas with higher ratios of primary care providers per capita had lower healthcare costs than other areas, possibly due to better preventative care and lower

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<sup>1</sup> Shi L. The impact of primary care: A focused review. *Scientifica (Cairo)*. 2012. doi:10.6064/2012/432892.

<sup>2</sup> Starfield B, Shi L, Macinko J. Contribution of primary care to health systems and health. *Milbank Q*. 2005;83(3):457–502. doi:10.1111/j.1468-0009.2005.00409.x.

<sup>3</sup> *Id.*

hospitalization rates.<sup>4</sup> This contrasts with areas where there are higher numbers of specialists—characterized by more spending, but worse health outcomes.<sup>5</sup>

### ***Reducing Physician Reporting Burden and Incentivizing Participation in APMs & MIPS***

Generally, the implementation of MACRA has created burdens that osteopathic family physicians have to navigate to ensure they can continue to care for their patients. Many ACOFP members have encountered difficulties with MIPS and have found the program overly burdensome, confusing and not linked to patient care. Our members have also spent considerable time keeping up with annual updates and policy changes since the program was implemented. Specifically, they have had to implement practice changes to comply with the myriad of MIPS requirements. Independent solo and small family physician practices have been particularly frustrated with the program because they have limited resources to meet the many requirements of MIPS. They also have been forced to make significant practice changes and investments in EHR systems to ensure they are complying with MIPS. While larger entities may be equipped to make these necessary investments, independent solo and small practices are particularly disadvantaged when such changes are needed, adversely impacting their ability to succeed under new programs.

Despite clear evidence that primary care physicians are a critical asset for high-quality healthcare for their patients, osteopathic family physicians are faced with limited opportunities to participate in APMs and MIPS program requirements that are overly burdensome, confusing, and not directly linked to patient care. By creating more opportunities for physicians to participate in value-based payment models that do not require smaller practices to merge or partner with larger entities, provider participation in APMs would increase and result in better outcomes and health status for patients, as well as lower health care spending. Implementing changes that reduce physician burden and the creation of models that truly enable participation of practices of all types are critical for all physicians—especially osteopathic family physicians—to ensure they can provide high-quality care.

We believe that MIPS and APMs can be improved by providing more opportunities for primary care physicians to participate in the QPP, especially in APMs. We believe CMS can improve the program in a way that both recognizes the unique characteristics of osteopathic family medicine practices and rewards them for improved patient outcomes and health status. To increase provider participation in APMs, Congress can focus on reducing administrative requirements for physicians that are overly burdensome and that disproportionately impact independent solo and small practices. By limiting burden and simplifying model design elements, osteopathic family physicians will have more opportunities to meaningfully participate in APMs. Reducing burdensome administrative requirements will allow physicians to devote more time and resources to treat patients. Participation in APMs has the added benefit of lifting many of the burdensome MIPS requirements that have a disproportionate adverse impact on smaller practices.

### ***Ensuring Beneficiaries' Continued Access to Telehealth***

We fully support the Committee's plans to chart a responsible path forward that preserves access to crucial telehealth services under Medicare fee-for-service (FFS).

Specifically, ACOFP strongly supports improving broadband and access to telehealth services. Many osteopathic family physicians are eager to use telehealth as a way to reach patients in rural areas. However, it is impossible to use telehealth services if the patient (and in some instances, the physician) does not have access to reliable internet. It is critical to expand broadband to all corners of the country.

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<sup>4</sup> *Id.*

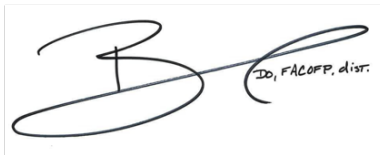
<sup>5</sup> *Id.*

Further, the Committee should advance legislation that would increase access to telehealth by removing regulatory barriers. For example, there are many Medicare reimbursement policies (e.g., geographic and originating site restrictions) that limit the full potential of telehealth. ACOFP strongly believes that expanded access to telehealth services helps ensure that patients receive necessary treatment, even if they are unable to see a provider in person. Expanded telehealth services also has the added benefit of improving health equity, as patients with disabilities and limited means of transportation have more opportunities to interact with their providers.

While we support increased access to technology and broadband for patients who otherwise might not be able to utilize telehealth services, we also want to highlight the importance of existing physician-patient relationships and care coordination. ACOFP believes telehealth is best used for established patients, and the primary care physician should coordinate care for patients, including care furnished via telehealth. We want to ensure equitable access so that patients who might need it most, specifically those in rural or underserved areas, are able to maximize telehealth opportunities while not sacrificing the physician-patient relationship. In addition, while ACOFP supports the use of telehealth, it is also important to maintain protections to guard against fraudulent activity.

Thank you for your leadership in addressing the challenges that osteopathic family physicians face in our health care system. ACOFP is committed to working with the Committee to reduce financial and regulatory burdens for independent solo and small physician practices to improve patient care to care.

Sincerely,

A handwritten signature in black ink, appearing to read 'BK', with the text 'DO, FACOFP, dist.' written in smaller letters to the right of the signature.

Brian Kessler, DO, DHA, FACOFP, *dist.*  
President, ACOFP