

July 23, 2013

The Honorable Andy Harris, M.D.  
U.S. House of Representatives  
1533 Longworth House Office Building  
Washington, D.C. 20515

Dear Representative Harris:

The undersigned organizations write to lend their full support and endorsement to your bill that would repeal subsection 2706(a), Title XXVII, of the Public Health Service Act, the “Non-Discrimination in Health Care Providers” provision. It was enacted without the benefit of a hearing as part of the Affordable Care Act (ACA). Left unchanged, this little-noticed provision will put the federal government on a collision course with state law and regulations starting January 1, 2014.

Under this new law, it will become illegal “discrimination” under federal law for private individual and group health plans, and state-based health insurers, to make qualification distinctions among varying groups of physicians and other health care professionals. This new stricture will apply in putting together the panels of those who will provide services to health plan and insurance policyholders.

We are deeply concerned that for certain covered services in a number of states, this new part of the Public Health Service Act will be interpreted to provide that all health professional groups be considered as if their education, skills and training were equal even if their state-based medical and healthcare professional licenses or certifications are very different.

Traditionally, states have regulated the practice of medicine and other health care providers through distinct licensure and various certifications. This has allowed for significant local accountability toward safeguarding patients. In addition, improved care-coordination is now becoming the expected norm across health systems and in most hospitals. We support and need the best possible medical care for our patients and are working to ensure that through appropriate state-based licensing and certification. However, we are concerned about what will result if federal regulators substitute their thinking for those in state government who have long debated and legislated on these complicated issues.

This ACA provision disrupts over a century and a half of dynamic state-based licensure and certification, interjecting the federal government into interpreting the limits of scope of practice and procedure. We urge its prompt repeal and look forward to working with you to accomplish that goal. Patient safety demands it.

Sincerely,

American Academy of Dermatology Association  
American Academy of Family Physicians  
American Academy of Ophthalmology  
American Academy of Otolaryngology - Head and Neck Surgery  
American Congress of Obstetricians and Gynecologists  
American Society of Anesthesiologists  
American Society of Plastic Surgeons