

Frequently Asked Questions (FAQs)

Additional Policy Issues of Interest for Leadership Day 2013

May 21-22, 2013

Where does ACP stand on the *Medicare Patient Empowerment Act*, which addresses private contracting for services under the Medicare program?

Sponsored by Rep. Tom Price (R-GA), the *Medicare Patient Empowerment Act* was introduced as H.R. 1700 on May 3, 2011 (112th Congress) and again on March 21, 2013 (113th Congress) as H.R. 1310. With each new Congress, legislation must be reintroduced if it has not been enacted into law, else it is rendered inactive. H.R. 1700 was not brought up for consideration by the full House in the 112th Congress.

H.R. 1700 and H.R. 1310 are virtually identical with one technical change that broadens the new legislation to apply to a physician, physician assistant, nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, certified nurse-midwife, clinical social worker, clinical psychologist, registered dietitian or nutrition professional, physical or occupational therapist or a qualified speech-language pathologist, or a qualified audiologist. The previous version, H.R. 1700, only applied to physicians.

This legislation would permit, among other things, Medicare beneficiaries and health care professionals the right to contract for items and services outside of the Medicare system and not be penalized. Medicare beneficiaries would still retain their Medicare benefits even if they enter into a private contract with a physician. The bill also prohibits contracting with beneficiaries who are dually eligible for both Medicare and Medicaid and when a beneficiary is in an urgent medical care situation.

While the American Medical Association (AMA), the American Osteopathic Association and numerous other physician groups have endorsed this legislation, ACP has not endorsed it because it lacks some important patient protections. If those protections were added, we would support it.

In the last Congress, ACP provided feedback to Dr. Price regarding H.R. 1700. The College stated that while ACP appreciates and supports the goal of H.R. 1700, we have concerns that the legislation does not include sufficient patient protections in cases where patients do not have a free choice of physicians that, if not addressed, could negatively impact access to care for some patients.

The College has long-standing policy that supports the primacy of the relationship between a patient and his/her physician, and the right of those parties to privately contract for care, without risk of penalty beyond that relationship. ACP policy goes on to state that certain patient protections are essential under any Medicare private contracting agreement. From an ethical standpoint, ACP believes that the physician's first and primary duty is to the patient. Physicians should be cognizant of their professional obligation to care for the poor and of medicine's commitment to serving all classes of patients who are in need of medical care.

While H.R. 1700 and H.R. 1310 contain many provisions that are consistent with ACP policy, including: (1) a requirement that physicians disclose their specific fee for professional services covered by the private contract in advance of rendering such services, with beneficiaries being held harmless for any subsequent charge per service in excess of the agreed upon amount; (2) a prohibition on private contracting for dual Medicare-Medicaid eligible patients; and (3) a requirement that private contracts cannot be entered into at a time when the Medicare beneficiary is facing an emergency medical condition or urgent health care situation. However, there are other important protections absent from H.R. 1700 and H.R. 1310 that are critical to ensuring adequate patient access to care, such as: (1) a prohibition on private contracting in cases where a physician is the "sole community provider" for those professional services that would be covered by a private contract; (2) a prohibition on private contracts in other cases where the patient is not able to exercise free choice of physician; (3) clarification that private contracting arrangements should not apply at a time when emergency or urgent care is being rendered, even if the treating physician and patient had previously entered into a private contract.

What is the Independent Payment Advisory Board (IPAB)?

The Affordable Care Act (ACA) established an Independent Payment Advisory Board (IPAB), which must submit recommendations to Congress, beginning in 2014 to reduce the growth of Medicare expenditures if a specified growth threshold is passed, while maintaining or improving the quality of care delivered. The Department of Health & Human Services (HHS) has announced that the growth rate will not be exceeded for 2014. The Secretary of HHS would be required to implement these recommendations on a fast-track basis unless Congress passed an alternative proposal that provided an equivalent amount of budgetary savings. Congress can also amend or dismiss these recommendations through a supermajority vote – at least a two-thirds vote in the Senate. A more detailed description of IPAB and its processes is available in the College’s document “An Internist’s Practical Guide to Understanding Health System Reform,” which is available [here](#).

What is ACP’s position on the IPAB?

ACP supports the general concept of an independent body developing recommendations to implement payment reform that helps to effectively maintain the fiscal integrity of the Medicare system. ACP believes that it is very difficult for Congress to make Medicare payment and budgetary decisions due to its limited healthcare expertise and the influence of significant special-interest lobbying efforts on the political process. Thus, these important decisions required by Congress are often inadequately informed, unduly influenced by special interests, or avoided. The College believes that an independent board of physicians and other health care experts that both informs Congress on means to effectively control the unsustainable growth of Medicare healthcare expenditures and provides an increased requirement for Congress to address this important issue would be more likely to achieve needed Medicare changes. The College further believes that the IPAB has the potential to serve this role, but requires some significant modification. Thus, rather than repeal IPAB, the College advocates for modifications to this current-law provision.

ACP policy calls for the following changes to the current IPAB provision of the ACA:

- Congress should be allowed to override IPAB recommendations with a majority rather than a super majority vote. The College agrees with the position of many of the other physician organizations that the current-law provision removes too much authority from Congress and their ability to be accountable to the public. This change would appropriately return adequate authority to Congress.
- It should be required that a physician who provides primary care services be a member of the IPAB. Given the multitude of research data reflecting the important role of primary care as a foundation for any effective and efficient healthcare system, ACP believes the inclusion of a member with these practice credentials is imperative.
- The current-law provision should include language to more clearly ensure that the savings obtained through IPAB recommendations and implementation either improves or at least maintains the quality of care provided.
- IPAB should be able to consider all Medicare providers and suppliers when developing payment delivery and expenditures change proposals, as opposed to the current situation where certain groups have been excluded. Payment delivery changes and reductions should not be the burden of a restricted number of Medicare providers and suppliers.
- IPAB authority should be expanded to make recommendations regarding Medicare coverage and benefits. It is important in order to efficiently use limited healthcare resources that decisions in these areas be based on a process that considers both clinical effectiveness and cost issues.

Legislation was introduced in January to repeal the IPAB but, as noted above, ACP is advocating for modifications to the IPAB as opposed to repeal. That legislation was introduced by Rep. David Roe (R-TN) and has 170 cosponsors, including Rep. Allyson Schwartz (D-PA).

What is ACP's position on the *Safe Communities, Safe Schools Act of 2013*, S. 649?

The *Safe Communities, Safe Schools Act of 2013* was introduced in the Senate on March 21, 2013 by Majority Leader Harry Reid (D-NV). S. 649 would require background checks for all firearm sales and prohibit “straw man” purchases that currently circumvent existing background checks. These measures would help keep firearms out of the hands of persons who intend to use them to harm others without infringing on Second Amendment rights. S. 649 was brought before the full Senate for a vote in April, 2013 but failed to garner the 60 votes needed for passage. The Senate also rejected a ban on assault-style weapons and high capacity magazines. Future congressional action on S. 649 or other gun control measures is unclear at this time.

ACP was disappointed by the outcome of the Senate vote on S. 649. For more than 15 years, the College has advocated for reasonable, evidence-based policies to reduce firearms injuries and deaths, including background checks and a ban on assault weapons and high capacity magazines. The College believes that physicians have a responsibility to be part of the solution to try and mitigate gun-related tragedies. The issue is a matter of public health and S. 649, while not perfect, does include key elements important to the College. A March 13 poll by the Pew Research Center finds that 83 percent of the public supports requiring background checks for all firearms sales.

In January, ACP released a [statement](#) in support of the President's call for a comprehensive plan to prevent firearms-related violence. In April, just prior to the Senate vote on S. 649, ACP distributed a [letter](#) to all senators noting the importance of the debate on firearms and calling for a vote on the measure.

Bob Doherty, ACP's Senior Vice President of Governmental Affairs and Public Policy, blogged about his reaction to the Senate vote on S. 649. His blog can be viewed [here](#).

What are the features of ACP's new advocacy website and can members find user-friendly information about ACP's policies there?

As a vital advocate for doctors, ACP tracks and takes a stand on a myriad of public policy issues of importance to internal medicine physicians. Now, information on those issues and ACP's position on them has become more accessible, thanks to a redesign of the College's advocacy division website.

Aimed at increasing the effectiveness and reach of the site, the redesign created a new advocacy landing page featuring a menu highlighting ACP's positions on important issues, the organization's legislative action center, state health policy resources, upcoming advocacy events, and current policy papers. Web visitors can also search a comprehensive policy library for ACP's public policy, clinical, educational, and ethics recommendations.

We invite you to [learn more](#) about the new website and use it as a future resource.