

PRESS STATEMENT

FOR IMMEDIATE RELEASE

ASSOCIATION OF INDEPENDENT DOCTORS (AID) STATEMENT ON IMPENDING REPEAL OF IN-OFFICE ANCILLARY SERVICES EXCEPTION (IOASE)

Winter Park, FL and Washington, DC – July 30, 2013 – The Association of Independent Doctors (AID) issued a statement today, regarding the In Office Ancillary Services Exception (IOASE). AID's statement follows:

The “in-office ancillary services exception” (IOASE) to Federal physician self-referral regulations (the “Stark” law) permits physician practices to provide critical services including radiation therapy, diagnostic imaging, pathology, and physical therapy in an integrated and coordinated fashion within their respective practices. The President's budget, proposes to repeal this provision for radiation, advanced imaging, and physical therapy -- which would result in more patients receiving these services in more costly hospital settings, rather than in less expensive independent physician practices.

The basis for the Administration's proposal appears to be a 2012 GAO report, “*Higher Use of Advanced Imaging by Providers Who Self-Refer Costing Medicare Millions.*”¹ This report suggests that utilization of MRI and CT is \$109 million higher per year for physicians who provide these procedures within their practices than for those who refer to facilities outside their practices.²

Numerous flaws in the GAO report have been extensively detailed by other parties, who concluded that costs to Medicare would *increase* substantially if IOASE is eliminated.³ Nearly 80% of advanced imaging services are performed at hospitals⁴ – where prices are often substantially higher. Based on a flawed GAO analysis, the President's FY2014 budget proposes to eliminate the IOASE.⁵

¹ See <http://www.gao.gov/assets/650/648989.pdf> and <http://www.gao.gov/assets/650/648988.pdf>.

² Id.

³ See for example: <http://www.asnweb.org/files/Advocacy/2013/Finance%20ltr%20IOASE%20POTUS%20FY2014%20Budget%20REDUCED.pdf>.

See also

<http://www.asnweb.org/files/Advocacy/2013/House%20GOP%20Doctors%20Caucus%20letter%20to%20House%20leadership%20062813.pdf>.

⁴ See <http://www.gao.gov/assets/650/648988.pdf> at pp. 4-5 including footnote 16; and pp. 8-9. See also <http://www.asnweb.org/files/Advocacy/2013/House%20GOP%20Doctors%20Caucus%20letter%20to%20House%20leadership%20062813.pdf>.

⁵ See <http://www.whitehouse.gov/sites/default/files/omb/budget/fy2014/assets/budget.pdf>, at p.41.

GAO's work is relied upon by Government at all levels. But no agency or office is 100% right, 100% of the time. And on this issue, GAO's conclusion is erroneous. The adverse consequences of this flawed calculation are discussed herein. Good policy doesn't require that we be right 100% of the time, but rather that we recognize changing circumstances, and adjust policies for the betterment of the American people. For these reasons, we urge policymakers to eliminate the proposed repeal of the IOASE.

Removal of the IOASE will increase Medicare costs, increase patient cost, reduce competition, and hurt small business.

Termination of IOASE Will Increase Medicare Cost, and Patient Cost

The GAO conclusion is simply irreconcilable with the facts on the ground. If IOASE is terminated, more ancillary procedures will be performed at hospitals, where costs are higher than at independent doctor practices.

The higher cost of hospital care is well documented. Press reports indicate **substantially higher rates charged by hospitals than by independent practices -- for the same or similar procedures.**⁶ For example *The Wall Street Journal* reported that, in Nevada, an MRI at a free-standing center ranged from \$319 to \$742, while the same test at a hospital runs between \$1,591 and \$2,226.⁷ *The Wall Street Journal* also cited **118% higher** charges for diagnostic colonoscopies; **85% higher** charges for electrocardiograms; and **49% higher** charges for cardiac nuclear imaging -- when performed at hospitals.⁸ In one example, a routine echocardiogram went up from \$373 to \$1,605, at the same facility, after the independent practice was bought by the hospital -- a more than **four-fold increase.**⁹ The *Orlando Sentinel* reported that a patient's co-pay for a standard heart perfusion study at a hospital-employed cardiologist in Florida is **44% higher** than at an independent cardiologist.¹⁰ The *Charlotte Observer* reported that some hospitals are "routinely **marking up prices on cancer drugs by two to 10 times over cost.** Some markups are far higher."¹¹ The *Cleveland Plain Dealer* noted that when hospitals include their facility fee, costs "can result in **charges that are two, three, or four times more costly for patients -- all for basically the same care.**"¹² Press reports indicate that

⁶Wall Street Journal, 8/26/2012, *Same Doctor Visit, Double the Cost – Insurers say Rates Can Surge After Hospitals Buy Private Practices; Medicare Spending Rises, too.* See:

<http://online.wsj.com/article/SB10000872396390443713704577601113671007448.html>. See also http://articles.orlandosentinel.com/2013-04-03/health/os-doctors-unite-20130403_1_orlando-health-physician-partners-independent-physicians-independent-doctors.

⁷ See <http://online.wsj.com/article/SB10000872396390443713704577601113671007448.html>.

⁸ Id.

⁹ Id.

¹⁰ See http://articles.orlandosentinel.com/2013-04-03/health/os-doctors-unite-20130403_1_orlando-health-physician-partners-independent-physicians-independent-doctors.

¹¹ See <http://www.charlotteobserver.com/2012/09/24/3549634/prices-soar-as-hospitals-dominate.html>.

¹² See http://www.cleveland.com/healthfit/index.ssf/2012/09/costs_rise_for_patients_on_hig.html and <http://www.ahipcoverage.com/2013/06/04/evidence-shows-provider-consolidation-leads-to-higher-health-costs-for-consumers-and-employers/>.

so-called full charges at hospitals grew an average 10% per year from 2000 to 2010, four times the rate of inflation.¹³

In its 2011 Report to Congress, The Medicare Payment Advisory Commission (MedPAC) recommended *against* changing the Stark law exception for ancillary services, citing potential “*unintended consequences, such as inhibiting the development of organizations that integrate and coordinate care within a physician practice.*”¹⁴ MedPAC concluded, “*we do not currently recommend that the exception be changed.*”¹⁵

In its June 2013 Report to Congress, MedPAC confirmed that hospital pricing is much higher than at freestanding (independent) physician practices.¹⁶ MedPAC noted, “*in 2013 Medicare pays 141 percent more when a level II echocardiogram is provided in an OPD [hospital outpatient department] rather than in a freestanding physician’s office.*”¹⁷ A 15-minute office visit at an OPD costs Medicare **70% more** than a visit to a freestanding physician office.¹⁸ MedPAC noted, “*Medicare and many private insurers pay higher rates for many services provided in OPDs relative to physicians’ offices.*”¹⁹

MedPAC noted the adverse impact that high hospital charges have on the U.S. Government, and on patients: “*Because most services receive higher payment rates when provided in OPDs than in freestanding offices, the migration of services to OPDs results in higher program spending and beneficiary cost sharing without significant changes in patient care.*”²⁰ MedPAC concluded, “*If the same service can be safely provided in different settings, a prudent purchaser should not pay more for that service in one setting than in another.*”²¹

There is simply no way to reconcile GAO’s claims of cost savings associated with termination of IOASE, with these facts. Termination of IOASE will drive more patients away from independent doctors, to hospitals, increasing costs to Medicare and to patients.

Termination of IOASE Will Hurt Competition, and Reduce Patient Access to Care

Termination of the IOASE will hurt independent doctor practices, who will be forced to refer patients to other facilities. Most of these referrals will be to hospitals, who charge more. Independent practices already face a number of competitive disadvantages

¹³ See <http://www.businessweek.com/news/2013-03-11/uninsured-americans-get-hit-with-biggest-hospital-bills>

¹⁴ See http://www.medpac.gov/documents/Jun11_EntireReport.pdf, at p. 28.

¹⁵ Id.

¹⁶ MedPAC Report on Medicare And The Health Care Delivery System released on 06/14/2013 (“MedPAC Report”), at p. 33. See http://www.medpac.gov/documents/Jun13_EntireReport.pdf.

¹⁷ MedPAC Report at page xii.

¹⁸ MedPAC Report at p. 32.

¹⁹ MedPAC Report at p. 33.

²⁰ MedPAC Report at p. 33.

²¹ MedPAC Report at p. xii.

compared with large hospitals, including higher reimbursements for hospitals, and no tax obligations for non-profit hospitals. **If independent doctors are denied the ability to provide ancillary services, this would hurt and further accelerate their exit from the business, diminish competition, and deny patients an important right to choose. Patients who prefer to stay with their own independent doctor, and pay less, would be denied this opportunity.**

The number of independent doctors (i.e., those not employed by hospitals), as a percentage of total doctors **has declined from 57% in 2000, to a projected 36% in 2013,**²² while the number of hospital-employed physicians has skyrocketed.²³ The Medicare Payment Advisory Commission (MedPAC) reported that hospital-employed physicians and dentists grew by 55% from 2003 to 2011.²⁴ By contrast more than 100,000 independent doctors have exited the practice or become hospital-employed.²⁵ This may be the steepest decline for small business, in any American industry.

The decline of independent doctor practices, and increase in industry consolidation under hospitals, has coincided with a disturbing trend: During the past 10 years, health care costs per family of four, have more than doubled, and in 2012 exceeded \$20,000 per year for the first time.²⁶ Termination of the IOASE will accelerate the decline of competition, and further lead to higher prices.

In every industry, competition is an important check against higher prices, diminished quality, and loss of consumer choice. Health care comprises 18% of the GDP, and it is too important to get it wrong on this issue. Preservation of the IOASE is one small but important step that can help preserve competition, lower Medicare costs, and ensure that patients can access the most affordable care possible.

About Association of Independent Doctors (AID)

The Association of Independent Doctors (AID) is a national trade association established to further the interest of independent doctors. More information about AID is available at: www.aid-us.org. AID is a 501(c)(6) entity.

²² See <http://www.accenture.com/SiteCollectionDocuments/PDF/Accenture-Clinical-Transformation-New-Business-Models-for-a-New-Era-in-Healthcare.pdf>

²³ *The Wall Street Journal* reported that the number of specialty physicians who see patients at hospitals and who are employed by the hospitals, has risen by four times since 2000, and the equivalent share of hospital-employed primary-care physicians has doubled. See <http://online.wsj.com/article/SB10000872396390443713704577601113671007448.html>.

²⁴ See MedPAC Report at p. 33.

²⁵ See footnote 22. (Statistic for period 2000-2013.)

²⁶ See <http://www.forbes.com/sites/danmunro/2012/12/30/2012-the-year-in-healthcare-charts/>.