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February 19, 2016

The Honorable Fred Upton  
U.S. House of Representatives  
Chairman, Energy and Commerce Committee  
2125 Rayburn HOB  
Washington, DC 20515

The Honorable Joseph R. Pitts  
U.S. House of Representatives  
Chairman, Subcommittee on Health  
Energy and Commerce Committee  
420 Cannon HOB  
Washington, DC 20515

cc: The Honorable Frank Pallone, Jr., Ranking Member  
The Honorable Gene Green, Ranking Member, Subcommittee on Health

***BY ELECTRONIC DELIVERY***

Dear Chairman Upton and Chairman Pitts:

The Association of Community Cancer Centers (ACCC) appreciates the opportunity to provide feedback on the enactment of Section 603 of the Bipartisan Budget Act of 2015 and Congressional interest in site neutral payment polices. ACCC is the leading national multidisciplinary, multisite organization, whose members include hospitals, physicians, nurses, social workers, and oncology team members who care for millions of patients and families fighting cancer. ACCC represents more than 20,000 cancer care professionals from approximately 1,100 hospitals and more than 1,000 private practices nationwide. It is estimated that 60 percent of cancer patients are treated by a member of ACCC.

As Congress and the Centers for Medicare and Medicaid Services (CMS) consider implementation of Section 603 of the Bipartisan Budget Act of 2015, we encourage policymakers to consider the significant financial impact the law will have on hospital outpatient departments (HOPDs) furnishing cancer care services, particularly those serving our most vulnerable cancer patients. ACCC recently commissioned research that found that the prototypical community cancer care facility will be negatively impacted by Section 603 in amounts of up to \$1.8M in annual Medicare revenue reductions as a result of the law. This material financial impact threatens hospitals' ability to fund and maintain the operations of

outpatient cancer care locations, potentially causing outpatient site closures that “may endanger patient access to care, especially among patients who are sicker, the poor, minorities and seniors who often receive care in hospital outpatient departments.”<sup>1</sup>

In addition to the threat of potential closures of HOPDs, many hospitals already face high uncompensated care costs, and the new law inadvertently creates a disincentive for hospitals to open outpatient departments in areas with disproportionate numbers of financially vulnerable patients, including the uninsured, Medicaid beneficiaries, Medicare beneficiaries without supplemental insurance, and patients with high-deductible plans, including most health insurance exchange products. Further compromising patient access is the widespread practice of diverting financially undesirable patients from physician offices to the HOPD “safety net.” When outpatient departments become limited, either due to closures or because they were never opened in underserved areas, this leaves financially vulnerable cancer patients with limited or no options for care. ACCC has serious concerns that Section 603, implemented as written, and similar site neutral payment policies will result in further degradation of the financial sustainability of HOPDs, that HOPD services will be curtailed or closed down altogether and that patient access to cancer care will be compromised.

If the purpose of site neutral payment policies is to slow the trend of consolidation and integration among hospitals and physicians, and ultimately contain costs in the Medicare program, it should be noted that it is this very consolidation that is encouraged by the Patient Protection and Affordable Care Act of 2010 (ACA). The ACA provided an organizational framework in which providers are able to financially and clinically align to manage care across the full continuum and to prepare for managing the care of populations under financial risk arrangements, which will ultimately be required of providers. Yet if slowing consolidation is the purpose of these policies, a recent ACCC member survey found that the majority of oncologist-hospital consolidation relationships will proceed despite site neutral payment. According to our analysis, only an estimated 25% of oncologist-hospital consolidations will drop out due to site neutral payment. We believe this is because consolidating services to improve care delivery and prepare for at-risk alternative payment trumps short term reimbursement reductions.

ACCC strongly supports legislative or regulatory changes to Section 603 – and future approaches to site neutral policies – that recognize the complexities of the current cancer care delivery system, and the significant challenges site neutral policies pose to patient access. Specifically, ACCC supports an exemption for providers in areas with a high concentration of financially vulnerable patients, including, but not limited to, sole providers and Disproportionate Share Hospitals (DSH). ACCC also supports an exemption for hospitals that had made significant investment in a future HOPD at the time of passage of the Bipartisan Budget Act.

Thank you for the opportunity to comment. ACCC recognizes that the issues surrounding site neutral payment policies are complex. However, we strongly believe that, from a policy perspective, the issue should not be whether reimbursement rates for HOPDs should be lowered to physician office rates, but instead should focus on determining a fair and sustainable rate for

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<sup>1</sup> Statement on the Budget Deal. Press Release by Thomas Nickels, Executive Vice President Government Relations and Public Policy, American Hospital Association (AHA). October 27, 2015. <http://www.aha.org/presscenter/pressrel/2015/151027-pr-budgetdeal.shtml>.

both sites of care based on true cost and other relevant factors, including patient mix, and the extent and complexity of services provided. Given the diversity of our membership, ACCC is uniquely positioned to be a resource on site neutral payment discussions, and to provide a real-world view of what payment reductions will realistically mean to provider operations and patient access to cancer care.

We look forward to continuing to engage with Congress on this issue. Please feel free to contact Leah Ralph, Director of Health Policy, at [lralph@acc-cancer.org](mailto:lralph@acc-cancer.org) or (301) 984-5071 if you have any questions or need any additional information.

Respectfully submitted,

Wendalyn Andrews, BS  
Chair, Governmental Affairs Committee  
Association of Community Cancer Centers