

**ADMINISTRATION REPORT:  
REFORMING AMERICA'S HEALTHCARE SYSTEM THROUGH CHOICE AND COMPETITION**

**List of Recommendations**

**Address Potential Antitrust and Provider Consolidation**

- The administration should continue monitoring market competition, especially in areas that may be less competitive and thus more likely to be affected by alternative payment models.
- The administration should ascertain the impact of horizontal and vertical integration among provider practices on competition and prices.

**Broaden Scope of Practice**

- States should consider changes to their scope-of-practice statutes to allow all healthcare providers to practice to the top of their license, utilizing their full skill set.
- The federal government and states should consider accompanying legislative and administrative proposals to allow non-physician and non-dentist providers to be paid directly for their services where evidence supports that the provider can safely and effectively provide that care.
- States should consider eliminating requirements for rigid collaborative practice and supervision agreements between physicians and dentists and their care extenders (e.g., physician assistants, hygienists) that are not justified by legitimate health and safety concerns.
- States should evaluate emerging healthcare occupations, such as dental therapy, and consider ways in which their licensure and scope of practice can increase access and drive down consumer costs while still ensuring safe, effective care.

**Improve Workforce Mobility**

- States should consider adopting interstate compacts and model laws that improve license portability, either by granting practitioners licensed in one state a privilege to practice elsewhere, or by expediting the process for obtaining licensure in multiple states.
- The federal government should consider legislative and administrative proposals to encourage the formation of interstate compacts or model laws that would allow practitioners to more easily move across state lines, thereby encouraging greater mobility of healthcare service providers.

**Facilitate Telehealth to Improve Patient Access**

- States should consider adopting licensure compacts or model laws that improve license portability by allowing healthcare providers to more easily practice in multiple states, thereby creating additional opportunities for telehealth practice. Interstate licensure compacts and model laws should foster the harmonization of state licensure standards and approaches to telehealth.
- States and the federal government should explore legislative and administrative proposals modifying reimbursement policies that prohibit or impede alternatives to in-person services, including covering telehealth services when they are an appropriate form of care delivery. In particular, Congress should consider proposals modifying geographic location and originating site requirements in Medicare fee-for-service that restrict the availability of telehealth services to Medicare beneficiaries in their homes and in most geographic areas.

- States generally should consider allowing individual healthcare providers and payers to mutually determine whether and when it is safe and appropriate to provide telehealth services, including when there has not been a prior in-person visit.
- Congress and other policymakers should increase opportunities for license portability through policies that maintain accountability and disciplinary mechanisms, including permitting licensed professionals to provide telehealth service to out-of-state patients.

#### **Ease Restrictions on Foreign-Trained Doctors**

- The Department of Health and Human Services, in coordination with the Accreditation Council for Graduate Medical Education (ACGME), should identify foreign medical residency programs comparable in quality and rigor to American programs. Graduates of such equivalent programs should be granted “residency waivers,” allowing them to forgo completing an American residency and instead apply directly for state licensure.
- States should create an expedited pathway for highly qualified, foreign trained doctors seeking licensure who have completed a residency program equivalent to an American GME program.

#### **Streamline Federal Funding of Medical Education**

- As proposed in the FY 2019 President’s Budget, the federal government should streamline federal Health and Human Services spending on graduate medical education into a single graduate medical education grant program. The budget proposal also provides the Secretary with the authority to modify amounts distributed to hospitals based on the proportion of residents training in priority specialties or programs and based on other criteria identified by the Secretary, including addressing healthcare professional shortages and educational priorities.
- The administration should continue the work done by the HRSA’s National Center for Health Workforce Analysis, which studies U. S. physician supply needs across specialties and geographic areas. HRSA should launch a study that will also assess:
  - The administration’s workforce development programs.
  - Gaps between existing programs and future workforce needs and identifying actions needed to address them.

#### **Repeal or Scale Back CON and COPA Requirements**

- States should consider repeal of Certificate of Need (CON) statutes or, at a minimum, significantly scale back the scope of their CON regimes, for example by ensuring that competitors of CON applicants cannot weigh in on these applications.
- The FTC and its staff should make appropriate policy recommendations after completing ongoing research on the benefits and disadvantages of CON and COPA statutes and regimes.
- States should discontinue the use of COPAs to shield anti-competitive provider collaborations and mergers from antitrust scrutiny in the absence of any clear evidence that these regulatory schemes produce better results than market-based competition.

#### **Amend Federal Trade Commission (FTC) Jurisdiction Over Nonprofits**

- Congress should amend the Federal Trade Commission Act to extend FTC’s jurisdiction to nonprofit healthcare entities to prevent unfair methods of competition.

#### **Scrutinize Non-Compete Clauses and Other Restrictive Covenants**

- States should scrutinize restrictive covenants such as non-compete clauses, particularly their impact on patient access to care and on the supply of providers.

### **Scrutinize Any-Willing-Provider (AWP) Laws**

- Federal and state policymakers should carefully scrutinize the impact on competition and consumers of AWP laws, rules, and proposals, along with other restraints on network formation and selective contracting.

### **Loosen Network Adequacy Requirements**

- The administration should continue to provide flexible network adequacy standards for Medicare Advantage and other federally sponsored programs and avoid stringent requirements that are not conducive to innovation and modern medicine and that do not allow states flexibility to meet their specific needs.
- Similarly, states should consider loosening network adequacy standards and avoid stringent requirements.

### **Loosen Insurance Rules and Mandates**

- The administration should continue to work with Congress to enact legislation that remedies key problems resulting from the ACA, that promotes greater choice and competition in healthcare markets, and that produces a sustainable government healthcare financing structure.
- Similarly, the administration should provide states with the maximum ability to expand healthcare choice and competition and create a sustainable financing structure.
- States should allow maximum consumer choice and competition in their healthcare markets, including through Association Health Plans and short-term limited-duration insurance.
- Congress should repeal the ACA's employer mandate consistent with the FY 2019 President's Budget.

### **Replace Restrictions on Physician-Owned Hospitals**

- Congress should consider repealing the ACA changes to physician self-referral law that limited physician-owned hospitals.

### **Reconsider Section 1557 of the ACA**

- The administration should reconsider regulations authored under Section 1557 of the ACA to ensure they do not create undue administrative burdens and serve as unnecessary barriers to entry that inhibit competition.

### **Realign Incentives**

- Congress should expand consumers' abilities to benefit from Health Savings Accounts (HSAs), including by allowing a greater number of plans (e.g. any plan with an actuarial value below 70 percent) to be HSA-qualified plans, raising the contribution limit on HSAs, allowing people to use their HSA to pay HSA-qualified non-group premiums, allowing Medicare beneficiaries in enrolled high-deductible health plans to contribute to an HSA, and enabling consumers with HSAs to enter into provider-consumer fixed-fee arrangements, including direct primary-care arrangements.
- The administration should explore ways to administratively expand consumers' abilities to benefit from HSAs, including by interpreting preventive services to allow HSA-qualified plans greater ability to cover preventive low-cost treatments for chronic conditions.

- Consistent with Executive Order 13813, the administration should work through the regulatory process to increase the usability of HRAs, to expand employers' ability to offer HRAs to their employees, and to allow HRAs to be used in conjunction with non-group coverage.

### **Delivery System Reform**

- The administration should focus on identifying alternative payment models that allow free markets and patients to define value, rather than rely on technical and burdensome definitions invented in Washington.
- The administration should evaluate the best metrics for measuring value and quality in the healthcare sector, eliminating unnecessary and potentially counterproductive measures and reducing the burden on providers.
- The administration should ensure that smaller physician and provider practices are not unduly harmed by delivery system reform and corresponding requirements.
- The administration should ensure that these delivery system reform models, which aim to hold providers accountable to a set of population-based metrics and total spending, foster collaboration across systems within a geographic area and do not produce harmful consolidation, particularly horizontal consolidation.
- The Administration should pursue policies and programs that encourage value, competition, and choice, such as Medicare Advantage, and move away from a fee-for-service model.

### **Positively Realigning Incentives through Payment Reform**

- Congress should establish site neutral payment policies based on the anticipated clinical needs and risk factors of the patient, rather than the site of service. In delivering these reforms, Congress should account for differing levels of patient acuity.
- State Medicaid programs should embrace site neutrality as a goal and reform their payment systems to pay for the value delivered where value is defined according to a relatively limited, straightforward, and non-gameable set of metrics. Additionally, metrics should not be designed and proposed solely by the entities to which they will ultimately apply.

### **Quality Improvement and the Measurement and Reporting of Quality**

- As proposed by the Centers for Medicare and Medicaid Services' Patients over Paperwork initiative, the administration should streamline and standardize quality measures across programs to avoid duplicative reporting requirements and limit the number of measures where the expected cost of collecting the measure exceeds the expected benefit. In addition, the administration should collaborate with state Medicaid programs, private payers, and other government payers to align and streamline quality measures and reporting structures to reduce physician burden.
- The administration should seek to develop measures that are meaningful to providers and patients, and help them assess quality and value.
- The administration should focus on providing a framework for quality reporting in plain language that is more accessible and appealing to consumers.
- The administration should consider providing incentives and technical assistance to support the development of virtual provider groups (e.g., independent practice associations, alternative payment models, or regional quality collaboratives) that can increase the competitiveness of small practices through access to shared resources and help build capacity for care management.

- HHS should explore opportunities to initiate research into machine learning techniques that can directly access data on CMS beneficiaries from the provider Electronic Medical Records (EMRs) using open application program interfaces in order to enable quality analysis and payments based on value while reducing burden and cost and benefitting the public.

### **Facilitate Price Transparency**

- It should be a priority of this administration to ensure that patients are engaged with their healthcare decisions, and have the information they need to be savvy consumers of healthcare. Federal agencies should eliminate any federal rules or policies that create unnecessary barriers to state, federal or private sector initiatives that provide price transparency.
- The administration should consider legislative proposals to empower patients as they shop for healthcare by making it easier to pay directly.
- Congress should seek to empower patients as they shop around for healthcare by making it easier to pay for their healthcare directly. Actions might include:
  - Allowing all Americans, including Medicare beneficiaries, to maintain and contribute to a Health Savings Account, not only those enrolled in high deductible health plans.
  - Increasing flexibility for beneficiaries and providers in the Medicare program by allowing for direct negotiations between these parties so that beneficiaries can access services at a price or under a payment plan that works for them.
- Congress, federal agencies and states should incentivize providers to compete on price, including right to shop modeled on successful state efforts as well as understandable reference pricing models.

### **Using Choice to Bring a Longer-Term View to Healthcare**

- The administration should continue to publicly release and increase access to claims data from taxpayer-funded federal healthcare programs and encourage the private sector and states to build consumer-friendly websites capable of displaying price information for the most common transactions. The administration should work to ensure that such data are technically and financially accessible for third-party transparency advocates, vendors, developers, researchers, employers, state and local governments, and the general public.
- States should coordinate their efforts on maximizing the utility of claims data (consistent with all relevant federal and state privacy protections), including simplifying the process for reporting data and using a standard reporting format.

### **Improve Health IT**

- The administration should expeditiously implement provisions of 21st Century Cures Act to prevent information blocking, make it easier for patients anywhere to get their core health information, support “Open Application Programming Interfaces” to allow patients to get data on their smart phones, and encourage support of population-level data queries to allow payers electronic access to clinical data.
- CMS and ONC should continue work on documentation burden reduction to allow EHRs to provide informative medical records rather than boilerplate text for providers and patients.
- CMS should continue its emphasis on fostering interoperability across the healthcare sector.
- CMS should continue its efforts to make data available to patients through efforts such as “MyHealthEData” and Blue Button 2.0.
- ONC should continue making standards more comprehensive and robust.