June 3, 2019

Submitted via www.regulations.gov

Ms. Seema Verma
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

RE: CMS-9115-P; Medicare and Medicaid Programs; Patient Protection and Affordable Care Act; Interoperability and Patient Access for Medicare Advantage Organization and Medicaid Managed Care Plans, State Medicaid Agencies, CHIP Agencies and CHIP Managed Care Entities, Issues of Qualified Health Plans in the Federally-facilitated Exchanges and Health Care Providers

Dear Administrator Verma:

Thank you for the opportunity to comment on the proposed rule on interoperability and patient access. We welcome the opportunity to provide input on these topics, as interoperability and information exchange can be used to either encourage or limit provider competition.

The Partnership to Empower Physician-Led Care (PEPC) is a membership organization dedicated to supporting value-based care to reduce costs, improve quality, empower patients and physicians, and increase access to care for millions of Americans through a competitive health care provider market. We believe that it is impossible to achieve truly value-based care without a robust independent practice community. Our members include Aledade, American Academy of Family Physicians (AAFP), California Medical Association (CMA), Florida Medical Association, Medical Group Management Association (MGMA), and Texas Medical Association's PracticeEdge. We also have individual and small medical group supporters across the country, many of whom are independent physicians or practices.

We believe that the physician-patient relationship is most transformative when there is patient choice and provider competition within local markets. Independent physicians and practices are a key part of any value-based care system, and health information exchange – especially exchange across organizational boundaries – helps spur competition while improving quality, encouraging coordination, and reducing costs. Timely access to critical health information is also fundamental to value-based care, and independent physicians and practices seeking to adopt these models must have access to important clinical information about their patients to succeed under new models. Yet too often today, information sits locked in silos or otherwise trapped by organizational policies that prohibit or discourage sharing with other providers.

Given this backdrop, we strongly support CMS' proposal to use Medicare and Medicaid Conditions of Participation (CoPs) to encourage hospitals to electronically share information with community providers to support safe, effective transitions of care between hospitals and community providers. Because there are important health and safety concerns and comprehensive discharge planning begins when the patient

arrives at the hospital, we urge CMS to go further and expand this proposal to include patients who present in the emergency department but are not subsequently admitted as an inpatient.

We also want to reiterate that it is possible today for hospitals to send notifications without additional standards development and even without using certified EHRs. Many hospitals use administrative systems sitting outside their EHRs to gather the data needed for the notification. They may work with an ADT vendor, create their own interfaces or contract with a local HIE to send notifications. We support making the CoP flexible enough to allow providers sending and receiving information to use their preferred technological approach for doing so, including community networks where they exist. New requirements should not place additional cost or burden on community providers, but rather build on investments that have already been made in IT infrastructure and workflow improvements.

Finally, we recommend that CMS consider other policy options for replacing and/or clarifying the "reasonable certainty" standard included in the proposed regulation. We believe that hospitals should be compliant if they: 1) attest that they are not information blocking through the Promoting Interoperability Program; and 2) generate a notification and share it with an intermediary, but it is not ultimately sent because there is no subscribing provider. This change in policy gives hospitals credit if they are unable to comply with the requirement through no fault of their own, and alleviates any burden community providers might feel to ensure that their local hospitals are "reasonably certain" they can receive notifications.

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Using health and safety standards in a targeted manner will result in quality improvement and cost reduction while ensuring community providers – including independent physicians and groups – have access to the information they need. Coupled with penalties and stronger enforcement of policies designed to encourage health information exchange, such an approach will begin to break down barriers that have impeded coordinated patient care across settings, and will discourage providers from using information as a "strategic asset" at the expense of the patient.

We appreciate your willingness to explore bold action to address ongoing challenges, and encourage you to continue down this regulatory path. Please do not hesitate to reach out to me if the Partnership to Empower Physician-Led Care can be a resource to you. I can be reached at kristen@physiciansforvalue.org or 202-640-5942.

Sincerely,

Kristen McGovern
Executive Director