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October 11, 2017

Mr. James Kennedy
Chair
Receivership Model Law (E) Working Group
National Association of Insurance
Commissioners
444 North Capitol Street, NW, Suite 700
Washington, DC 20001

Re: Life and Health Insurance Guaranty Association Model Act (#520)

Dear Chairman Kennedy:

On behalf of the American Medical Association (AMA) and our physician and student members, thank you for the opportunity to comment on possible revisions to the National Association of Insurance Commissioners' (NAIC) Life and Health Insurance Guaranty Association Model Act (Model Act) being considered by the Receivership Model Law Working Group (Working Group). We appreciate the opportunity to urge the Working Group to ensure that the Model Act will protect patient access to health care through the continued financial viability of independent practicing physicians when an insurer or health maintenance organization (HMO) becomes insolvent.

Today, perhaps more than ever, it is vital to preserve the independent practice of medicine from insurer and HMO insolvencies. In 2016, most physicians (55.8%) in the U.S. worked in "independent" physician practices—practices that were wholly owned by physicians, and not some other entity (e.g., a hospital or health system).¹ A thriving community of independent practicing physicians fosters competition. When the market for physician services is competitive, patients have more choices, and greater and timelier access to health care. Competition can lower health care costs for patients, employers, and other health care purchasers, and improve the quality of physician services. Subjecting independent practicing physicians to loss in the form of thousands, and perhaps even millions, of dollars in unpaid claims due to insufficient solvency protections undermines the financial viability of independent practices that are already under stress due to overly burdensome regulations, and is likely to reduce competition for physician services.

Failure to ensure that a robust guaranty fund will protect independent practicing physicians will also hinder the development of new payment and delivery reforms. Independent physician practices are already facing significant financial challenges due to regulatory burdens and the need to acquire new technologies, e.g., electronic health records. As the Working Group knows, our country is earnestly exploring ways to make the delivery of health care services more efficient and higher quality for patients

¹ Policy Research Perspectives, Updated Data on Physician Practice Arrangements: Physician Ownership Drops Below 50 Percent, Carol K. Kane, PhD, American Medical Association 2017, accessible at <https://www.ama-assn.org/sites/default/files/media-browser/public/health-policy/PRP-2016-physician-benchmark-survey.pdf>.

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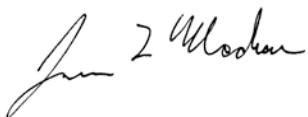
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through value-based payment initiatives, such as accountable care organization/shared savings arrangements, capitated contracts, patient-centered medical homes, bundled payment programs, etc. Physicians must be able to adapt to and succeed in these new payment and delivery strategies if these strategies are, as a whole, to transform the U.S. health care payment and delivery system. Yet physician practices cannot succeed in these innovative practice arrangements unless they have sufficient financial resources to make the kinds of practice investments, e.g., purchase new technology or hire additional staff, which will enable the physicians to track, monitor, and otherwise manage the health status and outcomes of the patient populations or episodes of care assigned to them. Independent practices cannot absorb the kinds of losses they have incurred in the past due to unpaid claims because of inadequate insolvency protections and also make the kinds of investments that are essential to make health care payment and delivery reform a reality.

Accordingly, it is imperative that when insurers or HMOs become insolvent, physician practices can be made whole by a robust guaranty fund that is funded by insurers and HMOs. This will help to protect the financial viability of these practices and will allow them to continue providing health care to the patients they currently serve.

Thank you again for giving the AMA the opportunity to share its thoughts concerning the Working Group's discussions concerning this Model Act. Please contact Wes Cleveland, Senior Attorney, Advocacy Resource Center, at (312) 464-4503 or wes.cleveland@ama-assn.org if you have any questions or comments.

Sincerely,



James L. Madara, MD