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February 12, 2019

The Honorable Anna Eshoo
Chairwoman
Subcommittee on Health
House Committee on Energy & Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Michael C. Burgess, MD
Ranking Member
Subcommittee on Health
House Committee on Energy & Commerce
U.S. House of Representatives
2322 A Rayburn House Office Building
Washington, DC 20515

Dear Chairwoman Eshoo and Ranking Member Burgess:

On behalf of the physician and medical student members of the American Medical Association (AMA), I am writing to express the AMA's strong support for H.R. 986, H.R. 987, H.R. 1010, and H.R. 1143, which will be the focus of the Subcommittee on Health's legislative hearing on February 13th entitled, "Strengthening Our Health Care System: Legislation to Reverse ACA Sabotage and Ensure Pre-Existing Conditions Protections." The AMA believes that these bills would help ensure that the Affordable Care Act's (ACA) goals of increasing access to high quality insurance coverage and guaranteeing key consumer protections are maintained.

H.R. 1010, a bill "to provide that the rule entitled "Short-Term, Limited Duration Insurance" shall have no force or effect," would overturn the final short-term limited duration insurance (STLDI) rule. The goal of the STLDI final rule, issued on August 3, 2018 by U.S. Department of Health and Human Services (HHS), the U.S. Department of Labor (DOL), and the U.S. Department of Treasury (Treasury), was to expand the availability of STLDI plans. The final rule extends the maximum duration of STLDI plans from three months to up to 12 months, and allows insurers to renew STLDI plans further for up to 36 months. The AMA strongly opposed this rule, stating in our letter to the Departments that "The AMA shares the goals of the Departments to support state and federal efforts to increase health plan choices and make coverage affordable and comprehensive for individuals seeking health insurance in the individual and small group markets...Unfortunately, this proposed rule is antithetical to achieving these goals, as it would undercut crucial state and federal patient protections, disrupt and destabilize the individual health insurance markets, and result in substandard, inadequate health insurance coverage. Accordingly, we urge the Departments to withdraw the proposed rule."

The AMA objected to the rule in part because STLDI plans are exempt from the ACA's consumer protection provisions and benefit standards, including the prohibition on pre-existing conditions exclusions, the guaranteed availability requirement, community rating (including gender and age rating protections), the prohibition on annual and lifetime coverage limits, and the annual out-of-pocket limits that protect consumers from large health care costs. Without the consumer protections required by the ACA, STLDI is considerably less expensive than individual market insurance and hence is very attractive to healthy individuals who do not want or think they do not need comprehensive coverage. The final rule allows these skimpy, non-ACA-compliant plans to compete against ACA-compliant plans in a parallel market. The AMA is concerned by predictions from health policy experts that the expansion of STLDI

will undermine the individual insurance market and create an uneven playing field by luring away healthy consumers, thereby damaging the risk pool and driving up premiums for consumers left in the ACA-compliant market. The AMA believes that the expansion of STLDI plans will reverse progress that has been made in expanding meaningful coverage to millions of previously uninsured Americans.

H.R. 986, the “Protecting Americans with Preexisting Conditions Act of 2019,” would revoke the guidance on Section 1332 of the ACA entitled State Relief and Empowerment Waivers (2018 guidance) issued by the Centers for Medicare & Medicaid Services (CMS) and the U.S. Department of Treasury on October 22, 2018. It also would prevent the CMS Administrator and Treasury Secretary from issuing any “substantially similar guidance or rule.” Section 1332 of the ACA established a new waiver supporting state innovation to enable states to experiment with and implement different models to provide health insurance coverage to their residents. While it allows some of the ACA’s private insurance and coverage provisions to be waived, states cannot waive key ACA protections, including the ban on preexisting condition exclusions, underwriting based on health status, and the ban on annual and lifetime limits. Section 1332 requires states to meet four statutory criteria or “guardrails” and show that a proposed waiver will provide comprehensive, affordable coverage to a comparable number of state residents as under the ACA, without increasing the federal deficit.

In the 2018 guidance, CMS and Treasury revised the agencies’ previous interpretation of the statutory requirements and significantly weakened the requirements that states must meet to receive waiver approval. Under the new guidance, the Administration indicated it would consider favorably state proposals promoting non-ACA compliant plans, including STLDI plans and Association Health Plans (AHPs), neither of which meet the ACA’s comprehensive benefit standards or include the ACA’s pre-existing condition protections. Moreover, the Administration indicated that states can use the 1332 process to take ACA subsidies that are now helping low- and moderate-income individuals afford ACA-compliant marketplace plans and use such subsidies to help individuals purchase STLDI plans and AHPs. The 2018 guidance allows states to simply demonstrate that a comparable number of residents will have access to comprehensive and affordable coverage, regardless of whether they actually enroll in that coverage. The AMA strenuously objected to these changes and urged the Departments to withdraw the guidance.

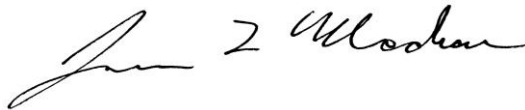
H.R. 987, the “Marketing and Outreach Restoration to Empower Health Education Act of 2019” or the “MORE Health Education Act,” would restore outreach and enrollment funding to assist consumers in signing up for health care. The Trump Administration decreased funding for the ACA’s 2018 Open Enrollment consumer outreach and enrollment educational activities from \$100 million to \$10 million, a 90 percent cut from the previous year, and continued to fund such activities at \$10 million during the 2019 Open Enrollment period. AMA policy strongly supports providing consumers with assistance in understanding their insurance options and the costs of coverage and in enrolling in the coverage that best meets their individual or family needs. We have watched with concern as the number of individuals enrolling in marketplace coverage has dropped over the past couple of years, and believe that H.R. 987 could help to reverse some of this decline by requiring HHS to conduct consumer outreach and enrollment educational activities for the ACA marketplaces, and prohibiting HHS from using funding—authorized at \$100 million per year—to promote plans such as STLDI and AHPs that do not provide comprehensive consumer protections.

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H.R. 1143, the “Educating Consumers on the Risks of Short-Term Plans Act of 2019,” would require STLDI plans to disclose the risks of STLDI to prospective consumers, including disclosure that STLDI may not cover preexisting conditions, may not cover the costs of medical services, and that coverage may be rescinded if the individual seeks treatment for a preexisting condition. While the final rule requires that issuers of STLDI plans display prominently in consumer materials a notice explaining that the policy that they are purchasing is not required to comply with the ACA’s federal market requirements, the language is very general and does not provide sufficient detail for consumers to understand the limitations of such policies. H.R. 1143 would remedy this defect by requiring in statute specific information regarding coverage exclusions and premium variations. Such language would allow consumers to understand more fully the limitations of STLDI plans that they may be considering.

The AMA applauds your leadership in holding a hearing on H.R. 1010, H.R. 986, H.R. 987, and H.R. 1143, and looks forward to working with you and your colleagues to advance these bills through the House of Representatives.

Sincerely,

A handwritten signature in black ink, appearing to read "James L. Madara". The signature is written in a cursive style with a large initial "J" and "M".

James L. Madara, MD