

H.R. 3200, THE “AMERICA’S AFFORDABLE HEALTH CHOICES ACT”

Answers to Frequently Asked Questions

Why is the AMA supporting H.R. 3200?

H.R. 3200 contains many elements that reflect AMA priorities for health system reform. These include: expanding the availability of affordable health care coverage to the uninsured, increased support for prevention and wellness services, investments in the physician workforce, increased Medicare payments for primary care services without cutting payments for other services and, importantly, it represents medicine’s best hope for eliminating the current sustainable growth rate (SGR) formula for updating Medicare physician payments. The AMA will continue to work with members of the House of Representatives to improve the bill. Favorable action on a House bill is necessary to move the process toward the end game negotiations that will determine the specifics of a final bill.

Why did AMA react so quickly?

The AMA has been reviewing and submitting detailed comments on draft proposals for several months, as well as engaging in substantive discussions with Congressional leaders and staff. There were a limited number of changes made in a draft of the bill that was released on June 19. So, we were able to complete an analysis of the 1,000+ page bill relatively quickly. Two of the three House committees completed their mark-up of the legislation on July 17 so it was important to voice our views prior to votes in committee.

Does the AMA support all provisions of H.R. 3200?

As is typical with very large bills, H.R. 3200 contains many provisions that we wholeheartedly support, others that concern us, and still other provisions that we want to see changed. We plan to continue our efforts to refine those elements that are inconsistent with our policy as the legislative process progresses. For example, during committee consideration we supported amendments to provide federal support to states that implement liability reforms and to preserve patient access to physician-owned hospitals. This is the beginning of a very lengthy process and we believe our support helps put us in a very favorable position to advocate for important changes when a House and Senate conference committee is appointed to craft a single bill for final passage.

Does the AMA support the public plan provisions included in H.R. 3200?

The AMA expressed concerns regarding the public plan provisions outlined in a House draft bill that was circulated on June 19. The public plan provisions in H.R. 3200 represented an improvement over previous draft proposals. Additional changes were made in the public plan provisions during the Energy and Commerce Committee markup that concluded on July 31. These included reaffirmation that physician participation would be voluntary and that physician payments would be negotiated based on private insurance rates rather than be limited to 5% above Medicare fee schedule rates. The Senate is developing different approaches to a public plan. H.R. 3200 would require a public plan to be self-sustaining and independent of the federal treasury. It also does not affect the ability of physicians to engage in private contracting arrangements with patients. We believe that, as the legislative process continues, alternatives and modifications to the public option will be considered and the final product will be considerably different than the provisions contained in the original version of H.R. 3200.

By supporting health reform legislation that includes a public plan, isn't the AMA really endorsing socialized medicine?

It truly is regrettable that so many of the important goals we hope to achieve through health system reform have been overshadowed by a headline-grabbing debate over the prospects of creating a coverage option bearing the label "public plan," without regard to the variety of forms such an option could take. The AMA continues to oppose nationalized health insurance, and we continue to express opposition to elements of public plan proposals that we believe could lead us down the road to a single payer system or "socialized medicine." However, we remain open to proposals that are consistent with our principles of pluralism, freedom of choice, freedom of physician practice, and universal access.

I have heard that as many as 120 million people will be enrolled in the new public option health plan. Is that true?

No. The nonpartisan Congressional Budget Office has estimated that the bill will ensure that 97% of the legal, non-elderly population will have health insurance. At most, 12 million people would be enrolled in the public plan, representing only about 4% of the entire population. Overall, 37 million uninsured Americans will have health insurance coverage who do not have it now.

Won't employers simply drop coverage?

Again, the non-partisan Congressional Budget Office estimates that from 2010 until 2019, the number of Americans with employer provided coverage will increase from 150 million to 162 million people. Additionally, for those Americans who purchase coverage through the Health Insurance Exchange, two-thirds (or 20 million people) will choose private plans. This means a significant increase in the number of American's insured by private insurance plans.

Does H.R. 3200 make private insurance illegal?

There have been some misleading press reports on this issue. The legislation does not make private insurance illegal. Rather, it regulates health insurance coverage and, except for some "grandfathered" existing policies, individual coverage could only be offered through the Health Insurance Exchange established by the bill. (The Health Insurance Exchange is a regulated market place for people to purchase private coverage that meets minimum criteria.) In fact, the legislation would make great strides in regulating insurers so that they treat patients and providers more fairly.

What about liability reform?

The AMA worked closely with Rep. Bart Gordon (D-TN) to authorize state pilot programs for medical liability reforms. The House Energy and Commerce Committee adopted an amendment that authorizes pilot programs for "early offer" and certificate of merit initiatives.

Does the bill expand scope of practice of nurse practitioners?

Nothing in the bill would allow nurse practitioners to provide care that is beyond their state license. However, the bill would establish a medical home pilot program under Medicare that would allow a nurse practitioner to lead a medical home "so long as...the nurse practitioner is acting consistently with State law." While the AMA recognizes nurses as valuable members of the health care team, we do not support nurse practitioners practicing independently, without at least regular consultation with a physician. It is the AMA's policy that a multidisciplinary health care team should be led by a physician who is in the best position to provide coordination of disciplines to assure delivery of high quality patient care.

Would H.R. 3200 authorize the Secretary of the Department of Health and Human Services to set physician payment rates for all health plans?

No. The Secretary would be required to establish payment rates only under the public health insurance option. Payment rates for the public plan would be set through a negotiation process with the Medicare fee schedule as a starting point and average plan rates in the Health Insurance Exchange as the upper limit.

Would H.R. 3200 eliminate health savings accounts?

H.R. 3200, as introduced, could be interpreted to eliminate this option. However, an amendment was adopted during the House Education and Labor Committee markup that would allow consumer-directed health plans and arrangements, including a high-deductible health plan, to be considered as acceptable coverage under a current group health plan for the first 5 years after the Act is operational.

Would H.R. 3200 allow government bureaucrats to tell physicians how to practice medicine and determine what treatment patients will receive?

H.R. 3200 would not provide the government with the authority to decide what medical treatment patients will receive. It allows patients to select the insurance plan that best suits their needs. H.R. 3200 also includes support for developing information that can be used by patients and physicians to make the best treatment decisions based on the patient's needs. The bill would not ration care; it would expand access to health care coverage and increase the information needed to support strong clinical decision-making.

Does H.R. 3200 require advance care planning?

The bill would create a new Medicare benefit that allows physicians to bill for the time they spend on advance care planning consultations with Medicare patients. It would not mandate that patients take advantage of this benefit. The new Medicare benefit would allow doctors to be compensated for such consultations every five years, and more frequently if a patient has a life-limiting illness or health status changes. The AMA supports Medicare reimbursement for physician advance care consultations with a patient, and encourages physicians to engage in these discussions with their patients.

Would H.R. 3200 prohibit patients from privately contracting with physicians, and prohibit physicians from “balance billing” patients?

The bill would not affect the ability of physicians to engage in private contracting arrangements with patients in the context of the public health insurance option or private plans offered within or outside the Health Insurance Exchange. Neither would the bill modify existing Medicare private contracting provisions. The bill allows balance billing under the public health insurance option, with limits mirroring those in Medicare. It also allows out-of-network physicians to privately contract with patients enrolled in the public plan, although those patients would receive no plan reimbursement under these circumstances. The AMA has expressed support for modifying this provision to ensure that public plan patients have a true out-of-network option that better reflects common practices in the private insurance market.

Would the provision in H.R. 3200 that replaces the SGR be dropped from the bill because of Pay-Go rules?

Key House and Senate leaders as well as senior White House officials remain committed to enacting legislation this year that would erase the existing SGR debt and establish a new, more favorable payment

structure for Medicare physician payments. It sometimes is confusing when policymakers discuss Congressional Budget Office scoring rules and legislative procedures. Using past scoring approaches, the “budget score” for changing the SGR policy would be \$239 billion. This year, we gained the support of House, Senate, and White House policymakers to erase the SGR debt and establish a new payment formula without having to identify budgetary offsets. The term of art is called a “pay-go waiver.”

Recent comments by Office of Management and Budget Director Peter Orszag about “removing the Medicare physician payment fix” were not about jettisoning a change in the SGR policy from health system reform legislation. Rather, he was referring to jettisoning budget scoring estimates, and key policymakers in the House, Senate, and White House continue to support replacing the SGR through a pay-go waiver.

Many analyses of H.R. 3200 have been circulating by email the provide detailed and very troubling descriptions of the bill’s provisions and its implications for government control of medicine, rationing care for the elderly, outlawing private health insurance plans, and more. How valid are these criticisms?

Trusted sources such as physician specialty societies have varying views of the legislation based on their organizations’ policies and priorities. However, many of the descriptions being broadly circulated by email make extreme claims based on cursory readings of the legislation supplemented by conjecture and misinterpretations that do not reflect an understanding of current law, medical practice, or insurance regulation. For example, one widely circulated message that includes page-by-page interpretations of the bill’s provisions states in alarming language that the government will mandate a National Health Service Corps. The National Health Service Corps is an existing federal program that most physician organizations agree should be expanded to encourage more residents to choose primary care specialties and to provide care in underserved areas. As is true with all email spam, messages that are repeatedly forwarded from an unknown original source should not be trusted. Physicians are encouraged to consult with the AMA, their state societies, and specialty societies about the accuracy of any legislative interpretations that cause them concern.