



August 19, 2008

The Honorable Charles E. Grassley  
Ranking Member  
Committee on Finance  
United States Senate  
219 Dirksen Senate Office Building  
Washington, DC 20510-6200

Dear Ranking Member Grassley:

The National Business Group on Health (the Business Group) wholeheartedly supports S. 3343, the Medicare Imaging Disclosure Sunshine Act of 2008 with its objective of bringing greater transparency to the Federal government's spending on medical imaging services. We believe S. 3343 would increase patient safety by reducing overutilization of unnecessary imaging services and by empowering Medicare patients with information on physicians' financial stake in the use of these services.

As you know, specifically, S. 3343 would amend the current Stark law governing physician self-referral to mandate that Medicare physicians disclose financial interests in imaging services provided to patients through the in-office ancillary exception. Physicians would also be responsible for providing patients with a list of alternative imaging providers in the area. This is extremely important legislation since patients would normally not know about factors that could have a significant effect on the use of services that are not only unnecessary but may even be harmful.

The National Business Group on Health represents 300 large employers (including 64 of the Fortune 100 companies) who provide health care coverage to over 55 million U.S. employees, retirees and their families. The Business Group serves as the national voice of large employers dedicated to finding innovative and forward-thinking solutions to the nation's most important health care issues. We believe that all health care providers and facilities should publicly disclose, in a simple, user-friendly format, the cost, quality, safety, and efficiency of health care services they provide as well as any other information that may impact patients' care decisions, such as financial arrangements and clinical guidelines for treatment.

Americans are increasingly becoming active decision-makers in their own health care. To make informed decisions, individuals seeking health care services need readily available, reliable information about recommended treatments and treatment alternatives, including the quality, safety and costs of such treatments. While the use of medical imaging services has slowed slightly in recent years with the medical societies and payers alike adopting appropriateness guidelines and accreditation criteria to reduce inappropriate scans,<sup>1</sup> spurred on by its capacity for revealing information about patients' physical

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<sup>1</sup> Demmerle, Cara and Jon Glaudemans. Diagnostic Imaging: Spending Trends and the Increasing Use of Appropriateness Criteria and Accreditation. Avalere Health. July 2008.

conditions without the use of invasive procedures, medical imaging is still the fastest growing physician service.<sup>2</sup>

Undoubtedly, advances in radiology are aiding in the diagnosis and treatment of illness, with some studies pointing to less invasive testing and resulting in lower total costs. The most medically appropriate and necessary imaging can be a life saver and improve diagnostic accuracy. Like everything else in medicine, balance is extremely important and imaging services are clearly out of balance in some locations and under some circumstances. Imaging use varies widely across geographic areas, giving rise to speculation that these increases may be related to other factors such as imaging equipment availability that do not necessarily correlate with better quality or superior outcomes. A recent Government Accountability Office (GAO) report found that while the proportion of imaging services performed in physicians' offices rose over the last 5 years, by 2006, in-office imaging spending per beneficiary varied almost eight-fold across the states—from \$62 in Vermont to \$472 in Florida.<sup>3</sup> Additional studies report a range of 20 to 50 percent of high-tech diagnostic imaging for a variety of conditions that fail to provide information that improves patient diagnosis and treatments that may be considered redundant or unnecessary.<sup>4</sup> Another study by the McKinsey Global Institute found that \$26.5 billion is spent annually on the unnecessary use of computed tomography (CT) scans and magnetic resonance imaging (MRI) tests alone.<sup>5</sup>

Due to its steep initial price and its costly utilization, medical imaging technologies may encourage physicians' excessive and needless use of these imaging technologies to recoup their investments, thereby presenting a major conflict of interest. In addition, as more physicians have installed equipment in their offices, the use of imaging as a diagnostic tool increased sharply. For example, non-radiologist physicians who own imaging equipment are substantially more likely to order diagnostic imaging than physicians who refer patients to other facilities,<sup>6</sup> according to the American College of Radiology (ACR).

The increased use of imaging has also raised concerns about unnecessary exposure to radiation due to inappropriate imaging. For example, one study estimates that as many as 1.5 to 2 percent of all cancers in the U.S. may be attributable to radiation from CT scans, a concern that is magnified for children and pregnant women.<sup>7</sup> American seniors deserve to know how these conflicts of interest could increase their health care risks and costs. Accordingly, the Business Group has sent comments to the Centers for Medicare and Medicaid Services (CMS) supporting limits on the use of the in-office ancillary exception

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<sup>2</sup> Government Accountability Office (GAO). Medicare Part B Imaging Services. Rapid Spending Growth and Shift to Physicians Offices Indicate Need for CMS to Consider Additional Management Practices. June 2008.

<sup>3</sup> Ibid.

<sup>4</sup> Colliver V. Curbing costs of medical scans: insurers seek to rein in fast-growing use of pricey high-tech MRIs and CTs. San Francisco Chronicle. April 24, 2005. Retrieved 7/24/08 from <http://www.sfgate.com/cgi-bin/article.cgi?file=/c/a/2005/04/24/BUGD3CDRAP1.DTL>.

<sup>5</sup> Angrisano C, et.al. Accounting for the cost of health care in the United States. McKinsey Global Institute. January 2007.

<sup>6</sup> Levin, David. Et. al. Turf Wars in Radiology: The Overutilization of Imaging Resulting from Self-Referral. Journal of American College of Radiology. 2004.

<sup>7</sup> Brenner D, Hall E. Computed tomography – an increasing source of radiation exposure. New England Journal of Medicine. 2007. 357, 2277-2284.

for diagnostic imaging services, particularly for advanced imaging technologies—CT, MRI, and positron emission tomography (PT).

We believe it is necessary for the financial future of Medicare as well as the quality and safety of care received by beneficiaries that strategies that promote the appropriate use of imaging services be pursued to avoid duplicate tests and unnecessary radiation exposure.

As you know, it is estimated that Medicare will be bankrupt by 2019, seven years earlier than previously expected and 22 years earlier than Social Security.<sup>8</sup> Moreover, the GAO recently reported that medical imaging has approximately doubled from 2001-2006 to \$14.11 billion for medical services under Medicare (Part B).<sup>9</sup> In their 2008 annual report, the Medicare Trustees project that expenditures for medical services (Part B), which covers physician, imaging and other outpatient services will increase over the next decade at average annual rates that far outpace the national economy's growth rate for that period (about 8 percent for Part B, compared with 4.8 percent for the national economy).<sup>10</sup>

The National Business Group on Health strongly supports your leadership to increase the transparency of physicians' self-referral for imaging services in the Medicare program. We believe S. 3343 will increase patient safety, reduce overutilization of imaging services, and ensure that Medicare beneficiaries will be able to continue to access the medical imaging technology they need to detect and fight serious illnesses. We thank you for your efforts and look forward to working with you to assist in the passage of this important bill.

Sincerely,



Helen Darling  
President

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<sup>8</sup> Social Security and Medicare Board of Trustees. Status of the Social Security and Medicare Programs. Modified April 2, 2008.

<sup>9</sup> Government Accountability Office (GAO). Medicare Part B Imaging Services. Rapid Spending Growth and Shift to Physicians Offices Indicate Need for CMS to Consider Additional Management Practices. June 2008.

<sup>10</sup> Ibid.