



AMERICAN ACADEMY OF  
ORTHOPAEDIC SURGEONS

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ORTHOPAEDIC SURGEONS

April 6, 2023

The Honorable Michael Burgess, MD  
2161 Rayburn House Office Building  
United States House of Representatives  
Washington, DC 20515

The Honorable Henry Cuellar  
2372 Rayburn House Office Building  
United States House of Representatives  
Washington, DC 20515

Dear Representative Burgess and Representative Cuellar:

On behalf of the more than 39,000 orthopaedic surgeons and residents represented by the American Association of Orthopaedic Surgeons (AAOS), I wish to express our support for H.R. 977, the *Patient Access to Higher Quality Health Care Act of 2023*. This common-sense legislation would repeal the controversial moratorium on expansion and new construction of physician-owned hospitals (POHs).

The Affordable Care Act (ACA) included a provision that strictly prohibits any new POH from participating in Medicare or Medicaid. Furthermore, the ACA also prohibits existing POHs from expanding unless they meet a very complicated set of criteria as part of a long application process. These hospitals provide some of the highest quality care in the country and help meet a growing demand for health care services, especially in rural areas. POHs represent the type of coordinated care being proposed for the future of healthcare delivery, run more efficiently, and have higher quality patient outcomes at a lower cost than those run by non-physicians or appointed boards.<sup>i</sup>

As you are well aware, physicians have specialized technical and practical knowledge that can be beneficial for hospital market entry, improving patient care, and hospital management decisions. Physicians are at the forefront of medical science and practice, with extensive training, research, and publications. They also have management experience from running hospital departments, helping patients navigate medical benefits and economic costs, and are familiar with paperwork necessary for reimbursement from public and private payers.

Physicians have actionable information for improving hospital services and starting their own businesses, comparable to the importance of a technical founder in a start-up. Allowing physician

ownership would drive innovation and improve hospital outcomes, while also lowering costs through competition.<sup>1</sup>

While less than five percent of hospitals in America are physician-owned, those operating take a clinical-first approach to hospital administration. This has been made apparent during the onset of the COVID-19 pandemic with many POHs were able to adapt more quickly to their population's emergent needs.<sup>2</sup>

Beyond general acute care, POHs represent 45 percent of specialty surgery hospitals<sup>3</sup>, providing the benefit of optimized facilities that better manage inpatient procedures that cannot be managed in an ambulatory setting. POHs can provide increased hospital competition to better benefit patients.

Additionally, POHs serve as diverse of a patient population as non-POHs. General POHs, which account for more than 80% of all Medicare admissions to a POH, do not engage in cherry picking.<sup>4</sup> Placing substantial restrictions on an entire class of hospitals based primarily on ownership could be justifiable as a policy if these institutions substantially harmed patients or payers. Yet, much of the evidence against POHs does not directly examine the impact of physician ownership.<sup>5</sup>

Programs created to reward high quality care, such as Value-Based Purchasing (VBP), have proven time and again that POHs (the very hospitals banned by the ACA), deliver the highest quality care to patients. Data released by the Centers for Medicare & Medicaid Services (CMS) shows that, since the enactment of the ACA, POHs outperform non-physician-owned hospitals in terms of quality, patient satisfaction and cost.<sup>6</sup> Under the Hospital VBP program, participating hospitals see their overall payments increase or decrease according to their "Total Performance Score" across a variety of

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<sup>1</sup> Mandelberg, Matthew and Smith, Michael and Ehrenfeld, Jesse and Miller, Brian, Hospital Competition and Restrictions on Physician-Owned Hospitals (February 5, 2023). Available at

SSRN: <https://ssrn.com/abstract=4350105> or <http://dx.doi.org/10.2139/ssrn.4350105>

<sup>2</sup> *ibid*

<sup>3</sup> Daniel M. Blumenthal et al., Access, quality, and costs of care at physician owned hospitals in the United States: observational study, 351 THE BMJ h4466 app. 8 (Sep. 2, 2015), <https://www.bmj.com/content/bmj/351/bmj.h4466.full.pdf>

<sup>4</sup> *ibid*

<sup>5</sup> *ibid*

<sup>6</sup> <https://data.medicare.gov/Hospital-Compare/Hospital-General-Information/xubh-q36u>

domains. Since the inception of the program, POHs have consistently ranked higher than non-POHs in these areas.<sup>7</sup>

This arbitrary ban on new and expanded POHs is bad for our entire health care system and penalizes patients who deserve the right to receive care at the hospital of their choice. POHs inject much-needed competition into the hospital marketplace, incentivizing traditional hospitals to improve and innovate. Further, POHs allow physicians, who know patient care best, to be more involved in the day-to-day decision-making of the hospitals.

I urge Congress to put patients first and pass the Patient Access to Higher Quality Health Care Act of 2023.

Sincerely,



Kevin J. Bozic, MD, MBA, FAAOS AAOS President

cc: Paul Tornetta, III, MD, PhD, FAAOS, AAOS First Vice President  
Annunziato Amendola, MD, FAAOS, AAOS Second Vice President  
Thomas E. Arend, Jr., Esq., CAE, AAOS Chief Executive Officer  
Graham Newson, AAOS Vice President, Office of Government Relations

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<sup>1</sup> Staff. (n.d.). Physician Hospitals of America Praises Consumer Reports' Ranking of Physician-Owned Hospitals as #1 in 19 States: Physician-owned and –operated hospitals were consistently ranked among the best in the country, according to a recent Consumer Reports survey, but are still under increased scrutiny in the healthcare reform debate by some members of Congress, according to a news release from the Physician. Retrieved from <https://www.beckershospitalreview.com/news-analysis/physician-hospitals-of-america-praises-consumer-reports-ranking-of-physician-owned-hospitals-as-1-in-19-states.html>

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<sup>7</sup> <https://data.medicare.gov/Hospital-Compare/Hospital-Value-Based-Purchasing-HVBP-Total-Perform/ypbt-wvdk>