December 6, 2017

The Honorable Paul Ryan
Speaker
United States House of Representatives
Washington, DC 20515

The Honorable Nancy Pelosi
Minority Leader
United States House of Representatives
Washington, DC 20515

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Charles Schumer
Minority Leader
United States Senate
Washington, DC 20510

Dear Speaker Ryan, Minority Leader Pelosi, Majority Leader McConnell and Minority Leader Schumer:

On behalf of the American College of Physicians (ACP), I am writing to express our disappointment and concern about the recently-passed Senate and House versions of the *Tax Cuts and Jobs Act* (H.R. 1) due to several harmful provisions that would decrease access to care for our patients and undermine vital health care and education programs. Specifically, we urge that any final version of this legislation, as is currently being crafted by the House-Senate conference committee, not include repeal of the individual insurance mandate, the elimination of key tax deductions for student-loan interest, the Lifetime Learning Credit, tuition waiver, and medical expenses, or otherwise trigger what would be massive cuts to Medicare and other crucial public health programs and services due to mandatory budget sequestration. We view these issues as vital to the interests of our profession and the well-being of our patients, and we welcome this opportunity to offer our feedback and recommendations on this legislation, as outlined in greater detail below.

ACP is the largest medical specialty organization and the second largest physician group in the United States, representing 152,000 internal medicine physicians (internists), related subspecialists, and medical students. Internal medicine physicians are specialists who apply scientific knowledge and clinical expertise to the diagnosis, treatment, and compassionate care of adults across the spectrum from health to complex illness.

Individual Insurance Mandate

ACP opposes the Senate-passed provision of H.R. 1 that eliminates the requirement under the Affordable Care Act (ACA) that persons purchase qualified health insurance. As ACP has previously stated, repealing the individual mandate would seriously impact health coverage for millions of Americans. According to a report by the non-partisan Congressional Budget Office

(CBO), repealing the individual mandate would increase the number of uninsured by four million in 2019 and 13 million in 2027. The American Academy of Actuaries similarly has warned that repeal of the individual mandate would lead to premium increases, weaken insurer solvency, cause an increase in insurer withdrawals from the market, and "could lead to severe market disruption and loss of coverage among individual market enrollees."

Repeal of the individual mandate that individuals obtain health insurance violates our criteria that any proposed changes to the ACA should *first, do no harm* to patients. The ACA, with the individual mandate, has been an effective tool in reducing the uninsured rate to its lowest level in decades, from 18.2 percent in 2010 to 10.3 percent in 2016.

We also understand there is some consideration being given to a trade-off providing for future enactment of the Bipartisan Health Care Stabilization Act of 2017 (BHCSA) and the *Lower Premiums Through Reinsurance Act of 2017* (S. 1835) in exchange for repealing the insurance mandate. The BHCSA continues cost-sharing reduction payments to health plans for two more years, among other improvements. While ACP fully supports the BHCSA, we urge caution because the BHCSA will be wholly ineffective in stabilizing the individual insurance market if the tax bill repeals the individual insurance requirement. The CBO recently confirmed that even if BHCSA were to become law, repeal of the individual mandate would result in coverage losses and premium increases similar to its earlier estimates of a "decrease of the number of people with health insurance of 4 million in 2019 and 13 million in 2027. . . In addition, the agencies estimated that average premiums in the non-group market would increase by about 10 percent in most years of the decade." And, while we appreciate the bipartisan effort to help improve and stabilize the individual insurance market, as proposed in the *Lower Premiums Through Reinsurance Act of 2017*, we are concerned that even if combined with BHCSA, the voluntary state reinsurance program created by the bill would not be sufficient to undo the damage caused by the repeal of the individual mandate. Specifically, independent and non-partisan analysts have concluded that funding to the states provided by the *Lower Premiums Through Reinsurance Act of 2017* would not be adequate to offset the 10 percent annual premium increases, loss of coverage, and destabilization of the individual insurance market, as estimated by the CBO and other analysts.

Tax Deductions for Education and High Medical Expenses

ACP remains opposed to several provisions in the House-passed version of H.R. 1 that eliminate key tax deductions that benefit higher learning and those individuals who incur high medical expenses. Specifically, we believe that the elimination of the student-loan interest deduction, the Lifetime Learning Credit, and tuition waiver exemption could hinder access to higher education and especially dissuade students from considering continuing their education to become physicians. Removal of the tuition waiver for graduate students, such as medical students who are research assistants, would be taxed as income under the House version, potentially making graduate school less affordable. The United States is facing a growing shortage of physicians in key specialties and the College is particularly concerned about the supply of internal medicine specialists in primary care. By 2025, it is anticipated that there will be a shortage of 24,000 primary-care physicians nationally. ACP believes that the federal government should not be changing the law in ways that would discourage students from choosing to continue their studies in medicine at a time when there is an increasing primary-care physician shortage.

ACP also has serious concerns about the proposed elimination of the current-law deduction for medical expenses, as contained in the House-passed version of H.R. 1, and instead urges adoption of the Senate provision that would allow individuals to deduct medical expenses for costs reaching 7.5 percent of an individual's income. Almost nine million Americans, many of them seniors despite being Medicare beneficiaries, incur high out-of-pocket health costs that are not covered by insurance, totaling $87 billion in allowable deductions. For low- and middle-income households, the medical-expense deduction is an important way to keep their tax bill more reasonable in years with high health-costs. According to AARP, "Nearly half (49 percent) of those who took the medical expense deduction had income less than $50,000, and nearly seven out of 10 (69 percent) had income less than $75,000," and, "Taxpayers with income less than $75,000 deducted an average of $8,990 in medical expenses." We are especially concerned that our patients could defer or even forgo needed treatment if this deduction were not available.

Cuts Mandated through Sequestration

We further urge that tax cuts and other initiatives should not come at the cost of cutting programs that serve the public health, such as Medicare, Medicaid, and the ACA as well as other important healthcare programs. As a result of automatic Pay-As-You-Go Act (SPAYGO) *cuts,* Medicare would be cut by $25 billion in 2018, according to CBO, resulting in a reduction in Medicare payments to physicians and other "providers" of four percent. The four percent SPAYGO cut in Medicare payments to physicians would be on top of deep mandatory spending cuts to physician services imposed over the past several years:

- The Budget Control Act (BCA) of 2011 reduced Medicare payments to physicians and other "providers" by 2 percent through budget sequestration.
- The *Protecting Access to Medicare Act (PAMA) of 2014*, required Medicare to reduce Medicare fee-for-service spending on physician services by 0.5 percent each year from 2017 to 2020 through reductions in the relative value units (RVUs) or across-the-board cuts if sufficient savings aren't found in RVUs; the *Achieve a Better Life Experience (ABLE) Act of 2014* moved the start date up to 2016, and increased the savings target to 1.0 percent for that year. The result has been a 1.04 percent across-the-board cut in Medicare payments to physicians.
- SPAYGO would reduce payments to physicians by another 4 percent in 2018.

Together, the combined cuts in Medicare payments for physician services from SPAYGO, BCA, PAMA, and the ABLE Act would be 7.04 percent compared to the baseline before such cuts were imposed, and they will continue to be in effect from 2018 onward. Such cuts will harm access to care for millions of seniors, as physicians cannot continue to absorb deep cuts in Medicare payments at a time when their costs are increasing, and when they are being asked to invest more resources into transforming their practices to participate in the value-based payment models created by the MACRA law. Primary care physicians, whose services have been historically undervalued by Medicare, will be particularly harmed by additional cuts in payments.

Graduate Medical Education, lab fees, and hospital payments also would be cut by SPAYGO's four percent on top of the two percent BCA cut, for a combined six percent cut. SPAYGO would cut or entirely eliminate hundreds of other federal programs that are critical to health including those within the Centers for Disease Control and Prevention (CDC), the Health Resources and Services Administration (HRSA), and the Prevention and Public Health Fund (PPHF).

We believe that it is essential that Congress promptly enact legislation to ensure that SPAYGO will not be triggered to pay for any final tax bill that may come out of the conference committee, through whatever legislative vehicle would make this so. While we acknowledge that the Senate and House majority leadership have stated for the record that SPAYGO will be waived, we believe that there needs to be agreement on a clear legislative pathway to waive SPAYGO, that has the support of both the Republican and Democratic leadership (since waiving SPAYGO would require 60 votes in the Senate, before any final tax bill is voted on).

Finally, even if statutory SPAGO is waived, we remain concerned if the $1.5 trillion (without dynamic scoring) or $1 trillion that will be added to the deficit because of the tax bill, per the CBO, will be used to justify future cuts in Medicare, Medicaid and other critical health care programs. While we support fiscally-responsible policies to achieve health care savings, we cannot support targeting vital health care programs for future cuts in order to close the deficit gap created by tax legislation.

In closing, the College appreciates this opportunity to offer these recommendations in the spirit of being constructive and helpful to the important legislative work that lies ahead on this legislation. ACP strongly believes in the *first, do no harm* principle and has consistently applied this principle in an evidenced-based manner to determine if proposed initiatives will harm patients.

Sincerely,

Jack Ende, MD, MACP
President

Cc: Members of the United States Senate and Unites States House of Representatives