875 N. Michigan Avenue
Suite 3100
Chicago, IL 60611
www.lugpa.org

April 26, 2023

LUGPA Testimony to the Energy & Commerce Committee

"Lowering Unaffordable Costs: Legislative Solutions to Increase Transparency and Competition in Health Care."

Chairman Guthrie and Ranking Member Eshoo, the Large Urology Group Practice Association (LUGPA) is honored to submit this testimony to the Energy & Commerce Committee "Lowering Unaffordable Costs: Legislative Solutions to Increase Transparency and Competition in Health Care." LUGPA represents 150 urology group practices in the United States, with more than 2,100 physicians who, collectively, provide more than one-third of the nation's urology services. However, our focus on public policy is on assisting all independent physician practices and the patients we care for.

This testimony builds on the our previous statement of March 28, in which we provided detailed information and concrete policy ideas to address hospital acquisition of physician practices and made suggestions to promote greater competition, transparency and patient choice in the delivery of health care. Specifically, in today's testimony, we address several of the bills before the committee:

1) **Capping Beneficiary Copayments for Physician-Administered Drugs:** LUGPA supports the draft legislation, which equalizes the amount beneficiaries pay for physician-administered drugs by capping beneficiary copayments in the physician office at the HOPD cap. This policy is particularly pertinent to expensive drugs whose copayment burden hinder beneficiary access and act as an impediment to care delivery in the more efficient office setting. LUGPA, along with several other groups, previously suggested this policy in our comments to the GOP Healthy Futures Task Force.

2) **Expanding site neutrality for grandfathered, hospital-owned off-campus physician practices:** LUGPA supports the draft legislation, which expands upon the 2015 Bipartisan Budget Act, that required that new outpatient departments of hospitals be paid by Medicare and Medicare beneficiaries at the same rate as other outpatient providers (physician offices, non-hospital outpatient surgical centers) for the identical services provided in those settings. The discussion draft extends this policy to off-campus outpatient hospital departments that existed prior to 2015, addressing the illogical reimbursement at a much higher rate for precisely the same service based solely on facility ownership. This closes a critical loophole in the law and is a policy long supported by LUGPA and redresses the unintended windfall that this resulted in for hospital systems.

3) **Site-Neutrality for Procedures with Plurality of Care:** LUGPA believes the bill to limit payments to the site-of-service that has the plurality of services, as suggested by MedPAC, should be modified. In particular, we encourage the Committee to consider an alternative policy that narrows but does not entirely eliminate payment disparities between settings of care. Ultimately, policy should promote behavior which promotes innovation, improvements in quality and high-quality care delivery in the most cost-efficient setting. Congress could still achieve substantial net budget savings by pursuing a "carrot and stick" approach that both encourages more care in the physician office/ASC setting and while deterring costly care in the hospital setting by modestly increasing payments in the less costly settings of care and modestly cutting reimbursement in the hospital setting. Additionally, adopting this policy makes the physician office setting more viable over the long-term and will encourage even greater migration, particularly since that payment system is confronting indefinite payment freezes while hospitals continue to receive robust, compounding payment updates.

4) Reform of Inpatient-Only List: LUGPA thanks the committee for including this important issue that puts clinical decisions in the hands of practicing physicians rather than bureaucrats. LUGPA believes the draft bill's phase-out of the inpatient-only list, currently applicable to certain musculoskeletal services, should be expanded to apply to all procedures on the inpatient-only list, as was proposed by CMS several years ago by the previous Administration, but with limited implementation. In addition, the bill should ensure there are associated payments in Hospital Outpatient Prospective System and the ASC payment system to provide these procedures. Finally, CMS should either eliminate the ASC-payable list and let ASCs perform all procedures physician bring to that facility or alternatively add all outpatient procedures to the ASC-payable list.

5) PBM and 340B Transparency: LUGPA is in strong support of greater PBM and 340B transparency, as we believe negotiated rebates and statutory discounts are not reaching the patients and the current pharmaceutical pricing schemes are negatively distorting pricing behavior by pharmaceutical manufacturers.

We thank the committee for advancing these bold ideas and look forward to working with the committee on the particulars of these bills as the process moves forward.

Sincerely,

Evan R. Goldfischer, MD, MBA
President