



March 30, 2014

The Honorable Ron Wyden
Chairman
Committee on Finance
United States Senate
Washington, DC 20510

Dear Chairman Wyden:

On behalf of the National Independent Laboratory Association (NILA), I am writing to express our appreciation to you for your leadership and commitment to seeking permanent change to the Sustainable Growth Rate (SGR) formula. The independent laboratory owners and laboratory professionals of NILA applaud and support your effort to address permanent SGR reform this year. We agree it is imperative that Congress responsibly address this issue for health professionals, Medicare beneficiaries, and the sustainability of the Medicare program.

NILA represents independent community and regional clinical laboratories in Oregon and across the country that work with physician practices, hospitals, outpatient care settings, skilled nursing facilities, and home health care agencies to provide essential clinical laboratory services to Medicare beneficiaries, particularly those in underserved communities and hard-to-reach care settings. Our members are community-based businesses that range in size from small to multi-regional community laboratories and generally are family-owned businesses that span generations. Because of their long-standing presence in their communities, our members maintain a steadfast commitment to providing services in rural geographic locations, skilled nursing facilities, and home health settings. Every day, NILA members provide diagnostic laboratory services and results, upon which physicians base their clinical decisions for the Medicare beneficiaries they serve.

NILA members in Oregon and throughout the country maintain a strong commitment to working with you and your colleagues to ensure the nation's clinical laboratory payment policy is rational, fair, and ensures access to services for Medicare beneficiaries. We stand ready to work with you and your staff to explore policy changes that will ensure the manner in which Medicare reimburses for clinical laboratory testing is appropriate and fair for clinical laboratory testing providers, patients, taxpayers, and the Medicare program overall. That said, it is important to note that we have serious concerns about the House-passed SGR patch to be considered by the Senate – as we know you do, as well; in particular we cannot support the provisions pertaining to clinical laboratory payment policy as currently outlined.

For far too long, the focus on clinical laboratory testing services in relation to SGR reform has only been about making reductions to the Clinical Laboratory Fee Schedule as an offset for SGR adjustments. Short-term patches have resulted in significant reductions in clinical laboratory testing service reimbursement, which have not resulted in meeting Congress's goal of reducing health care spending or improving the quality of patient care. Further, such arbitrary cuts have done nothing to modernize the fee schedule for clinical laboratory services and have only led to a reduction in competition within the overall laboratory market as small and community-based laboratory businesses are unable to absorb or make up the reductions. Indeed, the short-term SGR patch passed by the House last week continues to build upon this flawed precedent. The House-passed patch establishes a new, significant, unfunded mandate on community and regional laboratories to report their private payer data to the Centers for Medicare and

Medicaid Services (CMS) in an effort to adjust Medicare payment rates. The expressed purpose of the language is to assess the laboratory market; however, as written, the language exempts some of the nation's largest laboratories from having to report information on all of their tests. Congress and CMS cannot capture and understand the nation's clinical laboratory market and pricing by looking only at a small segment of this market, and in a manner of immense burden on smaller laboratories. This broad policy was inserted into the SGR patch without Congressional hearings in the House or Senate and without providing our members an opportunity to provide feedback on how the changes will impact their businesses and ability to serve the Medicare program. We commend you for your interest in hearing from stakeholders about their concerns and ideas on Medicare payment policy and welcome the opportunity to continue to engage in dialogue with you and your staff on Medicare laboratory issues.

NILA believes it is time to get beyond harmful direct rate reductions and policies aimed only at payment reductions that do not consider the impact on care and service delivery. Indeed, NILA has worked hard to develop alternative policy proposals aimed to ensure that Medicare is paying for the right laboratory test and the right number of laboratory tests at the right time. Community-based clinical laboratories are a partner for Congress in its effort to improve health care quality and reduce health care costs and we are committed to working with you and your colleagues to take a new and improved approach to clinical laboratory payment policy. We believe that permanent SGR legislation can be enacted in a responsible and effective manner, without arbitrary cuts or other unfair requirements imposed on community-based laboratories. We express our commitment and interest to work with you and the committee going forward to achieve this goal.

Again, thank you for your efforts, and please know we support your goal of achieving permanent SGR reform. If we can provide additional information or be of any assistance to you and your staff, please contact our Washington, D.C. government relations representatives, Julie Allen (202.230.5126; julie.allen@dbr.com) or Ilisa Halpern Paul (202.230.4145; ilisa.paul@dbr.com). We look forward to working with you and your staff.

Sincerely,

A handwritten signature in blue ink that reads "Mark S. Birenbaum". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Mark S. Birenbaum, Ph.D.
Administrator

Cc: Majority Leader Harry Reid
Minority Leader Mitch McConnell